

## **INVESTIGATION REPORT**

FILE N<sup>o</sup> 2022-3067

Conformity of the earthwork plan of Georges-Lebel Street

Mitigomijokan District

Maryline Caron  
Ombudsman de Gatineau

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## Summary description of the complaint

The citizen acquired a townhouse built in 2013 on Georges-Lebel Street and located in the Mitigomijokan district. She noticed that rainwater was flowing towards the foundation of her house. Other owners or tenants have the same problem. In 2022, three requests are registered for information on drainage plan compliance. Following a discussion with the Infrastructure Department, she sent a request to the Urban Planning Department (SUDD). She was informed that there was no drainage pipe at the rear of her property and that there had been no inspection following construction.

In response to her Freedom of Information request, she is provided with a copy of the 2011-2012 and 2012-2013 building permits. On the building permits, it is stated that copies of certain reports or letters of compliance must be submitted and placed on file. She learns that there is no compliance document regarding the drainage plan for her property. She considers that the absence of this document is prejudicial to her, as it is impossible to determine whether the work was initially carried out in accordance with the drainage plan provided for in the earthwork plan.

## Citizen's expectation

- That the City take steps to obtain a document certifying that the work on the initial drainage plan for the McConnell Gardens project was carried out in a compliant manner;
- To prevent other citizens from encountering drainage problems that cause damage to their property.

## Scope of the investigation

The scope of the investigation includes an analysis of the regulations and internal procedures for monitoring residential development projects.

## Documentation

In the course of the investigation, in addition to the documents and photos provided by the citizen, the following documents were consulted:

- Requests registered at CANU #185###7, 187###7, 187###3;
- Building Act (chapter B-1.1, a. 185 and 192), Regulation respecting the guarantee plan for new residential buildings, chapter B-1.1, r. 8;
- By-law No. 99-2003 - Establishment of public services;
- By-law No. 501-2005 - Administration of Planning By-laws;
- By-law No. 504-9-2021 ;
- By-law No. 501-55-2021;
- Article 979 of the Civil Code of Quebec;
- Guide de surveillance des travaux : L'outil indispensable pour assurer un résultat de qualité, OIQ, April 2021 ;

- Agreement and request-Dessert-Municipal Services - McConnell Gardens residential project, phase 2 (CM-2011-171);
- PIIA-Residential project "Jardins McConnell" Aylmer sector (Development Guide 801-2-381);
- Certificate of location;
- Building permits 2011-2012 and 2012-2013;
- Notice to the applicant dated August 18, 2011;
- Site plan of the property;
- Grading Plan G-09-104-12 ;
- Notice of Claim;
- Access to Information response letter dated March 2022;
- Correspondence between the Infrastructure Department and SUDD.

## **Interviews**

In addition to the information provided by the citizen, additional information was gathered from the responsible managers and taken into account in the analysis of the file.

Several meetings and exchanges took place with:

- The Director - Infrastructure Department;
- The Director - SUDD;
- The Deputy Director - SUDD.

## **Analysis and findings**

### **Analysis of the regulations and procedures of SUDD**

- Two building permits were issued for the construction of the house on Georges-Lebel Street in 2011 and 2012;
- The permits do not explicitly state that a certificate of compliance for the residential drainage plan is required;
- At the time, the request for a certificate of conformity for the drainage plan was part of an internal procedure;
- The drainage plan for private residences was not and is not a required document in the municipal by-law;
- According to the McConnell Gardens development guide (PIIA), only the easement registration and the certificate of location are documents required and obtained by the SUD;
- The notice to the applicant given with the 2011 building permit stipulates that only article 979 of the Civil Code governs conflicting water flow situations between neighbouring properties;
- By-law 504-9-2021 addresses the City's jurisdiction to enforce the Quebec Construction Code and does not address drainage;

- Bylaw 501-55-2021, which governs the obligation to provide a certificate of location, does not contain any section relating to the obligation to provide a certificate of conformity for drainage plans;
- Only section 52.6 of bylaw number 501-2005 requires additional information and documents regarding drainage, but specifically for requests for intervention in an ecoterritory or a green corridor.

### **Analysis of the regulations and procedures of the Service des infrastructures**

- By-law 99-2003 sets out the division of responsibilities between the Infrastructure Department, the promoter (applicant) and the builder (holder) for the installation of "public services" and specifies the standards to be respected;
  - Plans and specifications must be approved by the City and the Ministry of the Environment<sup>1</sup> prior to the commencement of work (Section 19)
  - The conformity of the master plans for the road network, sanitary sewer, water supply and drainage basins is the responsibility of the consulting firm hired by the developer;
  - The work shall be carried out as set out in the agreement with the City (Section 24);
  - The developer shall deliver the as-built and installed grading plans as soon as the construction of Phase 1 is completed (Section 29);
  - Section II of the by-law refers to the technical standards for the dimensions and distances applicable to sewer pipes;
  - Section III of the by-law addresses the drainage system for new streets;
  - Section VIII of the by-law specifically addresses drainage for ditches and retention basins;
- The grading plan for McConnell Gardens was designed by the developer's consulting engineer and has been verified and accepted by the City of Gatineau in accordance with Section 19 of By-law 99-2003;
- The execution and respect of the earthwork plan is the sole responsibility of the developer and the builder;
- When the work is carried out directly by the Service des infrastructures, it provides full-time supervision of the work sites related to municipal infrastructures and equipment (e.g.: ditches, sewer system and catch basins, etc.);
- The time allocated to site supervision by developers is perceived as insufficient to ensure quality and compliance of the work;
- The completion of the residential drainage plan is carried out during the final stages of the housing construction project, either by a real estate company, a contractor or a self-builder, and no inspection or certificate of compliance is required in these situations.

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<sup>1</sup> In reference to the Ministry of the Environment and Climate Change (MELCC)

## **Analysis of the grading plan for the residences on a section of Georges-Lebel Street**

- The grading plan for the proposed McConnell Gardens residences does not include a swale, ditch or drainage trench;
- The grading plan consists of slopes located in the right-of-way easements on the private lots of the townhouses;
- The grading slopes located in the right-of-way lose their effectiveness over time and cause water to accumulate on the property causing damage to the property;
- There is no monitoring or municipal inspection mechanism in place to confirm that the grading plan has been completed as previously approved by the City.

## **Conclusion**

The Ombudsman de Gatineau concludes that Ville de Gatineau has complied with the "regulatory requirements" applicable to municipal works agreements and the Guide d'aménagement 801-2-381. However, the absence of a control mechanism at the level of the realization of the earthwork plans, during residential construction, represents a deficiency that could be prejudicial to a potential buyer.

## **Recommendations**

**Whereas**, the "Grading Plan" approved by the City may include slopes that must be respected to ensure effective drainage of surface water from proposed properties;

**Considering** that surface water from private properties must ultimately be collected by the storm sewer system

**Considering** that there is no municipal by-law to follow up on the drainage plans of new residential constructions provided for in the grading plan

**Considering** the best practices, the construction standards in effect, the standard specifications and the responsible management of development projects, the Ombudsman of Gatineau recommends :

### **Recommendation OMB-INFRA-2022-1.0 :**

Identify best practices to ensure efficient and sustainable drainage of properties during a residential development project, taking into account the geomorphological characteristics of the environment, the conditions specific to the project and the standards in effect:

#### **Outcome Indicator:**

- List of selected best practices.

**Recommendation OMB-INFRAS-2022-1.1 :**

Identify solutions to the issue of construction site monitoring in a developer's residential development project to determine control measures to ensure compliance of the work:

**Outcome Indicator:**

- Procedure for the application of control measures.

**Return on citizen's expectations**

1. According to the information gathered, the City will not approach the developer, given that the property was built nearly 10 years ago;
2. The recommendations addressed to the General Directorate are aimed at preventing drainage problems during residential development projects.



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MC/jml

Attachment : CM-2019-100

Copy :

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