



P.O. Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Item 12.1.2**  
**Appeals Standing Committee**  
**July 13, 2017**

**TO:** Chair and Members of Appeals Standing Committee

**SUBMITTED BY:** **ORIGINAL SIGNED**  
\_\_\_\_\_  
Bob Bjerke, Chief Planner and Director, Planning & Development

**DATE:** June 22, 2017

**SUBJECT:** **Appeal Report – Case #286211, 126 Rosedale Ave, Halifax**

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**ORIGIN**

Staff, pursuant to the *Halifax Regional Municipality Charter* (the “Charter”).

**LEGISLATIVE AUTHORITY**

Sections 355, 356 and 3(q) of the *Halifax Regional Municipality Charter*, S.N.S., 2008 C.39 (attached as Appendix A).

**MOTION FOR CONSIDERATION**

In accordance with Section 58 of Administrative Order One, the motion before the Appeals Standing Committee is to allow the appeal.

**RECOMMENDATION**

It is recommended that the Appeals Standing Committee uphold the Order of the Administrator and thereby deny the appeal.

**BACKGROUND:**

There have been no previous dangerous or unsightly cases for this property.

A complaint was received by service request on January 3, 2017. The complainant stated concerns with debris and a lack of maintenance to the property. As the complaint was received during the winter months, the Compliance Officer has been working with the property owner to address violations as weather conditions improved.

The debris violations have been removed by the property owner. This report will focus on the appeal dated May 14, 2017 by the property owner of the Order to Remedy for the deck in a state of disrepair under Case # 286211.

**CHRONOLOGY OF CASE ACTIVITIES:**

04-Jan-2017 The Compliance Officer conducted a site inspection at 126 Rosedale Avenue, hereinafter referred to as “the property” (attached as Appendix B). The Compliance Officer noted debris including broken glass on the property and a deck in a state of disrepair.

The Compliance Officer managed the debris violations under Case # 286245. The exterior maintenance violations were managed under Case # 286211. The property owner was given a 14-day Notice of Violation for the deck violation (attached as Appendix C).

The Compliance Officer left a message for the property owner explaining the violations.

18-Jan-2017 The Compliance Officer conducted a site inspection on site with the property owner and explained the violations. The property owner advised they would be unable to clean up the debris or work on the exterior maintenance until the spring.

20-Jan-2017 The Compliance Officer conducted a site inspection and noted the violations remain. The Compliance Officer left a message for the property owner explaining the importance of removing the broken glass from the property as it was a safety issue. The Compliance Officer also stated that they would be agreeable to discuss an extension for the other debris violations if required.

30-Jan-2017 The Compliance Officer conducted a site inspection and noted the violations remain.

22-Mar-2017 The Compliance Officer left a message for the property owner to advise that due to weather conditions a site inspection would take place in May. If there were any debris violations, the concerns would be addressed at that time.

02-May-2017 The Compliance Officer conducted a joint site inspection with the property owner and noted the debris and exterior maintenance violations remain. The property owner advised the weather was too wet to complete the work.

08-May-2017 The Compliance Officer conducted a site inspection and noted that the debris was removed from the property. The deck remained in a state of disrepair. A 30-day Order to Remedy (attached as Appendix D) was posted at the property. A copy of the Order to Remedy was sent to the property owner via registered mail.

The Compliance Officer left a message for the property owner advising that the debris case would be closed as owner compliance however the violation remains for the deck/stairs that require repair.

14-May-2017 The property owner submitted a Notice of Appeal (attached as Appendix E) to the Municipal Clerk’s Office in response to the 30-day Order to Remedy for exterior maintenance.

16-May-2017 The Municipal Clerk's Office sent the property owner a letter (attached as Appendix F) advising the appeal would be heard at the July 13, 2017 Appeals Standing Committee meeting.

14-Jun-2017 The Compliance Officer conducted a site inspection and noted the violation remains.

### **FINANCIAL IMPLICATIONS**

There are no financial implications if the owner complies with the Order. If the Municipality is required to complete the work, the costs will form a debt against the property which may be collected in the same manner as taxes pursuant to the Halifax Regional Municipality Charter, S.N.S., 2008, C.39.

### **ALTERNATIVES**

The state of the property suggests no viable alternative.

### **RISK CONSIDERATIONS**

There are no significant risks associated with the recommendations in this report. The risk consideration rates low.

### **ENVIRONMENTAL IMPLICATIONS**

Avoids unsafe living conditions which aligns with Sustainability Principle #4 of the Corporate Sustainability Filter.

### **ATTACHMENTS**

- Appendix A: Legislative Authority – *Halifax Regional Municipality Charter*
- Appendix B: Copy of the Nova Scotia Property Records Map
- Appendix C: Copy of the 14-day Violation notice dated January 4, 2017
- Appendix D: Copy of the Order to Remedy dated May 8, 2017
- Appendix E: Copy of the Notice to Appeal dated May 14, 2017
- Appendix F: Copy of the letter from the Clerk's Office dated May 16, 2017

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A copy of this report can be obtained online at [halifax.ca](http://halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared For: Mark Prosser, Compliance Officer, By-law Standards, 902.478.2894

ORIGINAL SIGNED

Report Approved By: \_\_\_\_\_

Tanya Phillips, Program Manager, By-Law Standards, 902.476.6438

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## Appendix A

### **Halifax Regional Municipality Charter ('HRM Charter') Subsection 355 (1) 356 and 3 (q)**

HRM Charter, subsection 355(1) as follows:

- 355 (1) The Council may, by policy, delegate some or all of its authority pursuant to this Part, except the authority to order demolition, to the Administrator.

HRM Charter, subsection 356(1) as follows:

- 356 (1) Where a property is dangerous or unsightly, the Council may order the owner to remedy the condition by removal, demolition or repair, specifying in the order what is required to be done.

HRM Charter, subsections 356(2), (3A), as follows:

- 356 (2) An owner may appeal an order of the Administrator to the Council or to the committee to which the Council has delegated its authority within seven days after the order is made.
- (3A) Where the Council or the committee varies or overturns the order of the Administrator, the Council or committee shall provide reasons to be recorded in the minutes of the Council or committee meeting.

HRM Charter, subsection 3(q) as follows:

- (q) "dangerous or unsightly" means partly demolished, decayed, deteriorated or in a state of disrepair so as to be dangerous, unsightly or unhealthy, and includes property containing
- (i) ashes, junk, cleanings of yards or other rubbish or refuse or a derelict vehicle, vessel, item of equipment or machinery, or bodies of these or parts thereof,
  - (ii) an accumulation of wood shavings, paper, sawdust, dry and inflammable grass or weeds or other combustible material,
  - (iia) an accumulation or collection of materials or refuse that is stockpiled, hidden or stored away and is dangerous, unsightly, unhealthy or offensive to a person, or
  - (iii) any other thing that is dangerous, unsightly, unhealthy or offensive to a person, and includes property or a building or structure with or without structural deficiencies
  - (iv) that is in a ruinous or dilapidated condition,
  - (v) the condition of which seriously depreciates the value of land or buildings in the vicinity,
  - (vi) that is in such a state of non-repair as to be no longer suitable for human habitation or business purposes,
  - (vii) that is an allurement to children who may play there to their danger,
  - (viii) constituting a hazard to the health or safety of the public,
  - (ix) that is unsightly in relation to neighbouring properties because the exterior finish of the building or structure or the landscaping is not maintained,
  - (x) that is a fire hazard to itself or to surrounding lands or buildings,
  - (xi) that has been excavated or had fill placed on it in a manner that results in a hazard, or
  - (xii) that is in a poor state of hygiene or cleanliness;

### Property Online Map

Date: Jun 22, 2017 10:18:43 AM



PID:	00253120	Owner:	NOELLA MARIE MACDONALD	AAN:	00719323
County:	HALIFAX COUNTY	Address:	126 ROSEDALE AVENUE	Value:	\$281,200 (2017 RESIDENTIAL TAXABLE)
LR Status:	NOT LAND REGISTRATION		HALIFAX		

The Provincial mapping is a graphical representation of property boundaries which approximate the size, configuration and location of parcels. Care has been taken to ensure the best possible quality, however, this map is not a land survey and is not intended to be used for legal descriptions or to calculate exact dimensions or area. The Provincial mapping is not conclusive as to the location, boundaries or extent of a parcel [Land Registration Act subsection 21(2)]. THIS IS NOT AN OFFICIAL RECORD.

**Property Online version 2.0**

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# HALIFAX

## Municipal Compliance

### Notice of Violation

Notice Served Upon: Name 126 ROSEDALE AVE  
or address HALIFAX NS

This is to advise that you are in violation of the following municipal and/or provincial legislation:

- |  |   |
|--|---|
| <input type="checkbox"/> HRM By-law A-300 Animals  | <input type="checkbox"/> HRM By-law S-300 Streets           |
| <input type="checkbox"/> HRM By-law C-300 Civic Addressing   | <input type="checkbox"/> HRM By-law S-600 Solid Waste       |
| <input type="checkbox"/> HRM By-law C-501 Vending  | <input type="checkbox"/> HRM By-law S-801 Temporary Signs   |
| <input checked="" type="checkbox"/> HRM Charter, Part XV Respecting Dangerous or Unightly Premises | <input type="checkbox"/> HRM By-law S-1000 Sidewalk Cafes   |
| <input type="checkbox"/> HRM By-law N-300 Nuisances  | <input type="checkbox"/> HRM By-law T-1000 Taxi & Limousine |
|  | <input type="checkbox"/> Other: _____                       |

Details of violation(s):

REAR WOODEN DECK IN A STATE OF DIS REPAIR  
DUE TO ROTTEN WOOD AND MISSING OR  
FAILING WOODEN COMPONENTS

Violation(s) to be rectified as per the following:

REMOVE THE REAR WOODEN DECK OR REPAIR  
TO CODE BY REPLACING ALL ROTTEN, MISSING  
OR FAILING WOODEN COMPONENTS

Notice of Re-inspection:

A re-inspection will be performed on 2 WEEKS to confirm the above noted violations have been rectified. If you have any queries regarding this matter, please contact the issuing Officer prior to the re-inspection date.

[Signature]  
Issuing Officer

902 478 2894  
Issuing Officer Phone Number

**Original Signed**

Issuing Officer Signature

JAN 4, 2017  
Date (dd/mm/yy)

930 AM  
Time (hh/mm)

286211  
Case Number

# HALIFAX

## ORDER TO REMEDY DANGEROUS OR UNSIGHTLY PREMISES

**IN THE MATTER OF:** Section 356 of The Halifax Regional Municipality Charter, S.N.S., 2008, C.39  
Hereinafter referred to as the "Charter"

- and -

**IN THE MATTER OF:** Property located at 128 ROSEDALE AVE, HALIFAX, NS,  
PID # 00253120 Tax # 719323 Case # 286211  
Hereinafter referred to as the "Property"

**TO:** NOELLA MARIE MACDONALD  
[REDACTED]

**WHEREAS** you are the owner(s) of the Property;

**AND WHEREAS** located on the Property is an unsightly or dangerous condition due to the rear wooden deck/steps being in a state of disrepair due to rotten or missing wooden components and a falling structure, also an accumulation of debris including but not limited to scrap wood, discarded house hold items, broken glass/mirror, litter and any other scattered debris, in accordance with Section 3(q) of the Charter;

**TAKE NOTICE** that you are hereby Ordered to remedy the condition of the Property by removing the rear wooden deck/steps or repairing it to code by first obtaining any permits required, and removing the accumulation of debris including but not limited to scrap wood, discarded house hold items, broken glass/mirror, litter and any other scattered debris, so as to leave the Property in a neat, tidy, environmentally compliant and safe condition;

**TAKE FURTHER NOTICE** that you have the right to appeal this Order to the Appeals Standing Committee of the Halifax Regional Municipality ("HRM") by filing a Notice of Appeal with the Municipal Clerk by mail at City Hall, P.O. Box 1748, Halifax, NS, B3J 3A6 or by fax to (902) 480-4208, within seven (7) days after the Order is posted in a conspicuous place upon the Property or served upon you;

**AND FURTHER TAKE NOTICE** that your failure to comply with the requirements of this Order within thirty (30) days after service, the Administrator, or any person authorized by the Administrator, may enter upon the Property without warrant or other legal process and carry out the work specified in this Order.

**AND FURTHER TAKE NOTICE** that the costs of complying with this Order, including the cost of completing the work specified herein, incurred by the Halifax Regional Municipality ("HRM") or its agents, is a debt payable by you to HRM and that HRM has a first lien on the Property in the amount of the debt which may be collected in the same manner and with the same rights and remedies as rates and taxes pursuant to the Charter;

**AND FURTHER TAKE NOTICE** that upon service of this Order any person who aids, assists, permits or causes a dangerous or unsightly condition or fails to comply with the terms of this Order is liable on summary conviction to a penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) and every day during which the condition is not remedied is a separate offense.

**DATED** at Halifax, Nova Scotia this 8th of May, 2017 AD.

Original Signed

MARK PROSSER  
COMPLIANCE OFFICER  
Phone: (902)478-2894 x

SCOTT HILL  
Administrator  
Halifax Regional Municipality

MAY 14 / 17

(BY LAW)

To Mr Scott Hill  
HRM ADMINISTRATOR  
FAX - 902 490 4208  
CASE # Z86211

HALIFAX REGIONAL  
MUNICIPALITY  
MAY 16 2017  
Original Signed  
MUNICIPAL CLERK

VALID

PLEASE ACCEPT THIS APPEAL FOR MORE TIME TO REPAIR DECK ETC,  
(IN ABSENTIA) BECAUSE

- THE WEATHER HAS BEEN WETTER THAN USUAL (FEW WARM, DRY DAYS)
- DANGEROUS TO USE POWER TOOLS IN MOIST/WET CONDITIONS
- PURCHASED WOOD IS WET (TARPED)
- HAVE ~~STARTED~~ <sup>BEGAN</sup> REGULAR SPRING YARD CLEANING
- FULLY INTENDED TO REPAIR DECK, BEFORE NOTICE FROM CITY
- BACKYARD HAS 5FT HIGH FENCE WITH SPRING HINGE AND LOCK ON IT

THANK YOU

Original Signed  
126 ROSEDALE AVE  
HALIFAX NS  
B3N-2J8

I HAVE NOT RECEIVED RESPONSE TO PREVIOUS APPEAL



		<b>REGISTERED DOMESTIC</b>	<b>RECOMMANDÉ RÉGIME INTÉRIEUR</b>	
		CUSTOMER RECEIPT	REÇU DU CLIENT	
To	Destinataire			
Name	Nom			
Address	Adresse			
City / Prov. / Postal Code	Ville / Prov. / Code postal			
Declared Value	\$			
33-088-584 (14-08)		RN 190 914 302 CA		

**REGISTERED MAIL**

May 16, 2017

Noella MacDonald

**Re: Case 286211 - 126 Rosedale Avenue, Halifax**

This is to advise that your appeal will be heard by the Appeals Committee on **Thursday, July 13, 2017**. The hearing will be held in the Council Chamber, 3<sup>rd</sup> Floor, City Hall, 1841 Argyle Street, Halifax. Please arrive for 10 a.m., but note that there may be other cases heard before yours on the agenda.

The staff report for this case will be posted online to the Appeals Standing Committee agenda page by end of day Thursday, July 6, 2017 <http://www.halifax.ca/boardscom/SCappeals/index.php> If you require a hard copy of the report, please contact our office.

Should you be unable to attend, you may have a representative attend to present the appeal to the Committee. Please note that your representative is required to have a letter signed by you giving permission. You or your representative may have witnesses or other evidence in support of the appeal and will be permitted up to 10 minutes to make a verbal submission. A copy of the appeals process is attached. If neither you nor a representative appears, the hearing will proceed and you will be advised of the Committee's decision. If you have any questions regarding this process, please the Compliance Officer, Mark Prosser, at 902-478-2894.

With regard to your previous appeal, please note that Case 286245 has now been closed. Our responses to your previous appeal were sent to you by way of registered mail and were returned to HRM marked, "Unclaimed." We do have copies of those letters, should you wish to receive them.

Sincerely,

**Original Signed**

Krista Vining  
Legislative Assistant  
Office of the Municipal Clerk

- cc: Tanya Phillips, Manager, By-law Standards
- Scott Hill, Supervisor, Regional Compliance
- Erin Dobson, Supervisor, Support Services
- Natalie Matheson, Adjudication Clerk
- Mark Prosser, Compliance Officer

Enclosure: Order of Proceedings for Appeals Standing Committee