


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

Appeals Standing Committee
February 9, 2017

TO: Chair and Members of Appeals Standing Committee


SUBMITTED BY: Bob Bjerke, Chief Planner and Director, Planning & Development

DATE: January 30, 2017

SUBJECT: Appeal Report – Case #283396 and 283442, 46 Ellenvale Ave, Dartmouth

ORIGIN

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

LEGISLATIVE AUTHORITY

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

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 eight previous dangerous or unsightly cases at the property. All eight cases were closed as owner compliance. There are currently three violations being addressed at this property; derelict vehicles, deteriorated make shift structure, lack of painting to the accessory structures. The property owner is appealing the Orders issued for the derelict vehicle and the deteriorated make shift structure.

There was a previous case heard by the Appeals Standing Committee on January 8 2015; the appeal was granted and the case was closed.

This case was a result of complaints received by service request on October 24, 2016. The complainants stated concerns with the amount of debris and derelict vehicles on the property in addition to dilapidated exterior buildings.

This report will focus on the appeal dated December 21, 2016 by the property owner of the Order to Remedy issued on December 15, 2016 under Case # 283396 (make shift accessory structure) and Case #283442 (derelict vehicle).

CHRONOLOGY OF CASE ACTIVITIES:

26-Oct-2016 The Compliance Officer conducted a site inspection at 46 Ellenvale Avenue, hereinafter referred to as "the property" (attached as Appendix A). The Compliance Officer noted three derelict vehicles and violations with the deteriorated make shift structure and lack of painting to the two accessory structures.

The property owner was provided two Notices of Violation for the make shift structure (attached as Appendix B) and the derelict vehicles (attached as Appendix C).

The Compliance Officer spoke to the daughter of the property owner and explained the violations and what was required to bring the property into compliance.

08-Dec-2016 The Compliance Officer conducted a site inspection and noted the violations still exist.

13-Dec-2016 The Compliance Officer spoke to the property owner and advised what was required to bring the property into compliance. The Compliance Officer advised that two Orders to Remedy will be posted at the property.

The Compliance Officer received several messages from the daughter of the property owner stating that it was her intention to clean up the property.

15-Dec-2016 The Compliance Officer conducted a site inspection and walked the property with the daughter of the property owner and identified the violations. The Compliance Officer noted that only one derelict vehicle remained at the property.

The Compliance Officer advised that it was important for the individual to start to clean up of the property and that if work was being done, additional time could be provided to bring the property into compliance. The daughter of the property owner was given two Orders to Remedy; one for the accessory structure and one for the derelict vehicle (attached as Appendix D and E). Copies were also sent to the property owner via registered mail.

21-Dec-2016 The property owner submitted a Notice of Appeal to the Municipal Clerk's Office (attached as Appendix F).

- 22-Dec-2016 The supervisor of the Compliance Officer received a call from the resident advising their intention to tear down the accessory structure and inquiring as to whether a permit was required. The Supervisor advised that due to the size of the shed no permit was necessary.
- 13-Jan-2017 The Municipal Clerk's Office sent the property owner a letter advising the appeal would be heard at the February 9, 2017 Appeals Standing Committee meeting (attached as Appendix G).
- 27-Jan-2017 The Compliance Officer conducted a site inspection and noted the accessory structure remains in a dilapidated state and the derelict vehicle has not been registered since 2015 and appears to be abandoned as remains filled with debris.

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: Copy of the Nova Scotia Property Records Map
Appendix B: Copy of the Notice of Violation dated October 26, 2016
Appendix C: Copy of the Notice of Violation dated October 26, 2016
Appendix D: Copy of the Order to Remedy dated December 15, 2016
Appendix E: Copy of the Order to Remedy dated December 15, 2016
Appendix F: Copy of the Notice to Appeal dated December 21, 2016
Appendix G: Copy of the letter from the Clerk's Office dated January 13, 2017

A copy of this report can be obtained by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared For: Tamar Pryor-Brown, Compliance Officer, By-law Standards, 902.476.3386



Report Approved By:

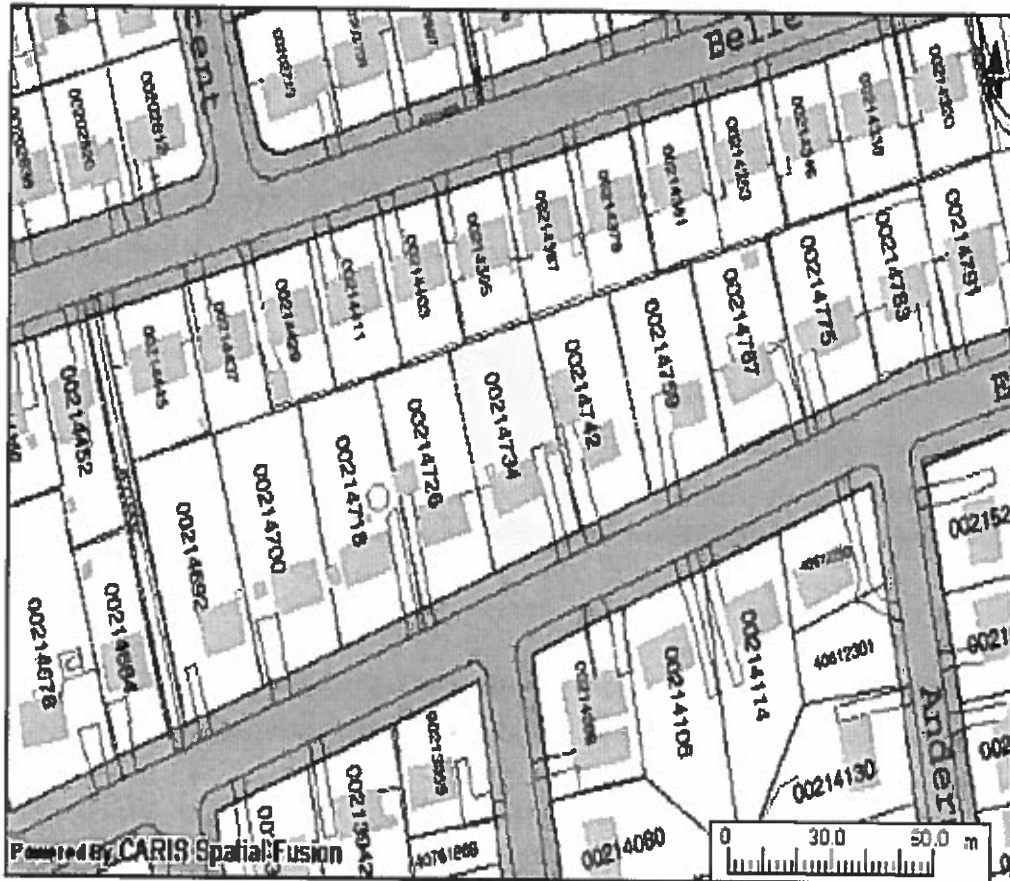
Jim Donovan, Manager, Buildings and Compliance, 902.476.8211

APPENDIX A



Property Online Map

Date: Jan 16, 2017 9:17:59 PM



PID: 00214734	Owner: JOSEPH WILLIAM RYAN AAN: 04286286
County: HALIFAX COUNTY	ROXANNE ALMA RYAN Value: \$224,600 (2017 RESIDENTIAL TAXABLE)
LR Status: NOT LAND REGISTRATION	Address: 46 ELLENVALE AVENUE DARTMOUTH

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

This page and all contents are copyright © 1999-2003, Government of Nova Scotia, all rights reserved.

APPENDIX B

HALIFAX

Municipal Compliance

Notice of Violation

Notice Served Upon: Name 46 Ellenvale Ave
or address _____

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):

A lack of exterior maintenance to the exterior structure (Shed)
leaving it in a state of disrepair, including but not limited to
rotting wood, missing support (walls) and other deteriorating features

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

Repair or Remove the associated structure.

Notice of Re-inspection:

A re-inspection will be performed on Nov 30, 2016 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.

Carrie Butler
Issuing Officer

902-496-1020
Issuing Officer Phone Number

ORIGINAL SIGNED
Issuing Officer Signature

26 Oct 2016
Date (dd/mm/yy)

10:10
Time (hh/mm)

283 396
Case Number

APPENDIX C

HALIFAX

Municipal Compliance

Notice of Violation

Notice Served Upon: Name 416 Fellenvale Ave
or address _____

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):

Vehicles that appear to be disused or abandoned by reason of its age, appearance, mechanical conditions or where required by law to be licensed or registered by its holder, license plates or current vehicle registration;
1) 1 beige 4 door Buick 2) 1 white mini van 3) 1 beige/brown mini van

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

Remove or repair being vehicles upto road worthy standards,
the 1) beige 4 door buick 2) the white mini van 3) beige/brown mini van

Notice of Re-inspection:

A re-inspection will be performed on Nov 30, 2016 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.

Carrie Butler
Issuing Officer

902-476-1080
Issuing Officer Phone Number

ORIGINAL SIGNED

Issuing Officer Signature

26 Oct 2016
Date (dd/mm/yy)

10:14
Time (hh/mm)

TBD
Case Number

APPENDIX D

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 46 ELLENVALE AVE, DARTMOUTH, NS,
PID # 00214734 Tax # 4286286 Case # 283396
Hereinafter referred to as the "Property"

TO: ROXANNE ALMA RYAN
[REDACTED]
JOSEPH WILLIAM RYAN
[REDACTED]

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

AND WHEREAS located on the Property is an unsightly or dangerous condition due to a make shift accessory structure in a state of disrepair, deteriorated tarpaulins, chipped and peeling paint, deteriorated wood components. Two other accessory structures on the property require trims to be scraped and painted, 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 make shift structure/tarpaulins from the property. Scraping and painting the trims on the remaining two accessory structures on the property, 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 1749, Halifax, NS, B3J 3A5 or by fax to (902) 490-4208, 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 15th of December, 2016 AD.

TAMAR PRYOR BROWN
COMPLIANCE OFFICER
Phone: (902)476-3388 x

SCOTT HILL

Administrator
Halifax Regional Municipality

ORIGINAL SIGNED

APPENDIX E

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 46 ELLENVALE AVE, DARTMOUTH, NS,
PID # 00214734 Tax # 4286286 Case # 283442
Hereinafter referred to as the "Property"

TO: ROXANNE ALMA RYAN

JOSEPH WILLIAM RYAN

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

AND WHEREAS located on the Property is an unsightly or dangerous condition due to a derelict beige Buick LS deemed derelict due to the appearance of abandonment (filled with debris) as well as lack of current registration and inspection, in accordance with Section 3(q) of the Charter;

TAKE NOTICE that you are hereby Ordered to remedy the condition of the Property by repairing or removing the derelict beige Buick LS from the property, 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 1749, Halifax, NS, B3J 3A5 or by fax to (902) 490-4208, 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 seven (7) 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 15th of December, 2018 AD.

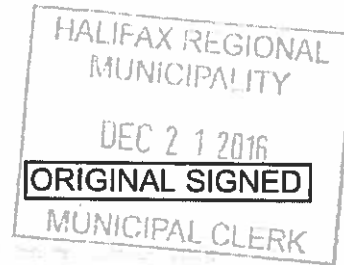
TAMAR PRYOR BROWN
COMPLIANCE OFFICER
Phone: (902)476-3386 x

ORIGINAL SIGNED
SCOTT HILL
Administrator
Halifax Regional Municipality

APPENDIX F

December 19, 2016

VALID



Dear Sirs,

We are appealing on two files of "Order to Remedy Dangerous or Unsightly Premises"

Case#283396: Make Shift Accessory Structure

We are requesting to have until March 31, 2017 to repair and clean out this structure. When the first agent visited the property, she gave my daughter a list of things she wanted her to correct. There was nothing on the list to indicate the shed needed repair. Three days after the agent's first visit, the agent called and said since we went to Appeal's Court 2 years ago, she was dropping all Compliances however a few days later, my daughter came home to find the exact same complaints hung on the on our door. When my daughter inquired as to why everything was dropped and then suddenly reinstated, the agent gave no reason. There was no prior notice that the structure needed to be repaired or removed – it just went right to "REMEDY". We have no problem with this request but need more time due to weather restrictions at this time of year.

Case #283442: Buick Regal LS

We are requesting to have until March 31, 2017 to fix or sell the said "derelict" Buick LS. The registration recently expired but our intention is to repair the vehicle to use as soon as funds permit this. The vehicle has only 19,000 miles on it and only requires a steering rack in order to safely operate, which can be quite costly.

I am currently in Senior Care and will provide a written note for my daughter (Sher Ryan) to appear on my behalf in these cases.

Sincerely,

Roxanne Alma Ryan

 ORIGINAL SIGNED

APPENDIX G

CANADA POST / POSTES CANADA		REGISTERED DOMESTIC CUSTOMER RECEIPT	RECOMMANDÉ RÉGIME INTÉRIEUR REÇU DU CLIENT	R
To / Destinataire	Name / Nom	1 888 550 6333		
Address / Adresse	City / Prov. / Postal Code / Ville / Prov. / Code postal	CPC Tracking Number / Numéro de suivi en la SCP RN 190 915 002 CA		
Declared Value / Valeur déclarée	\$	33-086-584 (14 06)		

January 13, 2017

REGISTERED MAIL

Roxanne Alma Ryan


Re: Case 283396 and Case 283442, 46 Ellenvale Avenue, Dartmouth

Ms. Ryan,

This is to advise that your appeal will be heard by the Appeals Committee on Thursday, February 9, 2017. The hearing will be held in the Council Chamber, 3rd 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 these cases will be posted online to the Appeals Standing Committee agenda page by end of day Thursday, February 2, 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 contact me at 902-490-6519.

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
Tamar Pryor Brown, Compliance Officer

Enclosure: Order of Proceedings for Appeals Standing Committee

HALIFAX

Halifax Regional Municipality
PO Box 1749, Halifax, Nova Scotia
Canada B3J 3A5

halifax.ca