



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

Item 4.1.1(ii)
Appeals Standing Committee
October 6, 2016

TO: Chair and Members of Appeals Standing Committee

SUBMITTED BY: **ORIGINAL SIGNED**

Bob Bjerke, Chief Planner and Director, Planning & Development

DATE: September 26, 2016

SUBJECT: Appeal Report – Case # 229928, 32 Elwin Crescent, Dartmouth

SUPPLEMENTARY REPORT

ORIGIN

Staff were advised on June 12, 2016 by the Municipal Clerk's Office that the property owner filed an appeal of the Order for Case # 229928 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.

RECOMMENDATION

The question before the Appeals Standing Committee is whether to allow or deny the appeal before them.

BACKGROUND:

There was one previous dangerous or unsightly case for this property. The owner complied and the case was closed as owner compliance.

A complaint was received through a service request on May 6, 2014. The complainant was concerned about the exterior maintenance as there were signs of rotten siding, stairs and fencing.

On May 7, 2014, the Compliance Officer conducted a site inspection at 32 Elwin Crescent, Dartmouth, hereinafter referred to as the “property” (attached as Appendix A). The property owner was on site and the Compliance Officer discussed the requirements to bring the property into compliance.

On July 16, 2014, the Compliance Officer conducted a site inspection and noted that the property owner had begun scraping the building.

On September 19, 2014, the Compliance Officer met with the property owner on site. The property owner advised that they obtained three quotes and were going to install siding to the house.

On June 8, 2015, the Compliance Officer inspected the property. The Compliance Officer noted that the property owner had completed additional painting work to the building and did not install any siding.

On June 26, 2015, the Compliance Officer issued a 60 day Notice of Violation to the property owner (attached as Appendix B). The Compliance Officer conducted several site inspections over the summer months in that year and noted that the property owner was making progress but was unable to complete the work.

The property was scheduled for the August 4, 2016 Appeals Standing Committee meeting however the case was deferred until the September 8, 2016 meeting at the request of the property owner.

The property was scheduled for the September 8, 2016 Appeals Standing Committee meeting however the case was deferred until the October 6, 2016 meeting at the request of the property owner.

This report will focus on the appeal dated June 12, 2016 by the property owner of the Order for the exterior maintenance violation under Case # 229928.

CHRONOLOGY OF CASE ACTIVITIES:

04-Mar-2016 The Compliance Officer conducted a site inspection with the owner present; the Compliance Officer noted no change since the previous site inspection. The property owner indicated the intention is to paint the house including the soffits over the summer.

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

06-Jun-2016 The Compliance Officer conducted a site inspection and noted the violation remains, an Order to Remedy (attached as Appendix C) was posted at the property. A copy was also sent to the property owner via registered mail.

12-Jun-2016 The property owner submitted a Notice of Appeal to the Municipal Clerk’s office (attached as Appendix D).

13-Jun-2016 The Municipal Clerk’s Office sent the property owner a letter advising the appeal would be heard at the August 4, 2016 Appeals Standing Committee meeting.

08-Jul-2016 The Compliance Officer conducted a site inspection and noted the exterior maintenance violation still exists.

03-Aug-2016 The Compliance Officer conducted a site inspection and noted the violation still exists.

The property owner contacted the Municipal Clerk's Office to advise they were unable to attend the August 4, 2016 Appeals Standing Committee meeting. The Municipal Clerk's Office sent the property owner a letter advising the appeal would be heard at the September 8, 2016 Appeals Standing Committee meeting (attached as Appendix E).

- 25-Aug-2016 The Compliance Officer conducted a site inspection and noted the violation still exists.
- 06-Sep-2016 The Compliance Officer conducted a site inspection and noted the violation still exists.
- 08-Sep-2016 The property owner contacted the Municipal Clerk's Office to advise they were unable to attend the September 8, 2016 Appeals Standing Committee meeting.
- 20-Sep-2016 The Municipal Clerk's Office sent the property owner a letter advising the appeal would be heard at the October 6, 2016 Appeals Standing Committee meeting (attached as Appendix F).
- 23-Sep-2016 The Compliance Officer conducted a site inspection and noted the violation still exists.

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.

RISK CONSIDERATIONS

There are no significant risks associated with the recommendations in this report. The risks considered rate low.

ENVIRONMENTAL IMPLICATIONS

The report addresses a community complaint regarding an unsightly violation. There are no environmental implications.

ALTERNATIVES

- To allow the appeal before the Appeals Standing Committee

Or

- To uphold the decision of the Administrator and deny the appeal.

ATTACHMENTS

- Appendix A: Copy of the Nova Scotia Property Records Map
- Appendix B: Copy of the Notice of Violation dated June 26, 2015
- Appendix C: Copy of the Order to Remedy dated June 6, 2016
- Appendix D: Copy of the letter of Appeal dated June 12, 2016
- Appendix E: Copy of the letter from the Clerk's Office dated August 3, 2016
- Appendix F: Copy of the letter from the Clerk's Office September 20, 2016

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: Henry Boutilier, Compliance Officer, Bylaw Standards, 902.476.9205

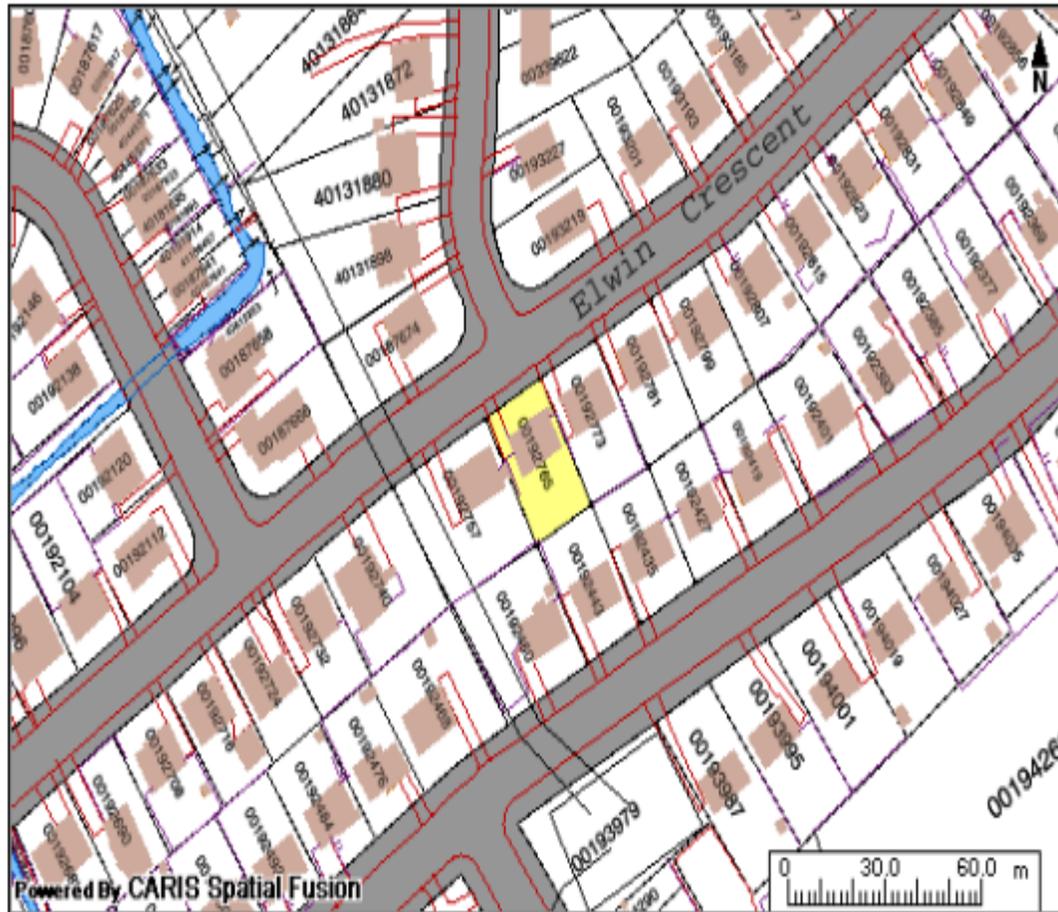
ORIGINAL SIGNED

Report Approved by: _____
Jim Donovan, Manager, Buildings and Compliance, 902.476.8211



Property Online Map

Date: Sep 19, 2016 4:24:14 PM



PID:	00192765	Owner:	MAURITA L RICHEY	AAN:	04972252
County:	HALIFAX COUNTY	Address:	32 ELWIN CRESCENT	Value:	\$192,900 (2016 RESIDENTIAL TAXABLE)
LR Status:	NOT LAND REGISTRATION		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.



By-Law Standards

Notice of Violation

The Property at (posted civic address): 32 Elwin cres
DARTMOUTH

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

- | | |
|---|---|
| <input type="checkbox"/> HRM By-law C-500 Vending | <input type="checkbox"/> HRM By-law S-800 Temporary Signs |
| <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 T-1000 Taxi & Limousine |
| <input checked="" type="checkbox"/> HRM Charter, Part XV Respecting Dangerous or Unsightly Premises | <input type="checkbox"/> Other: _____ |

Details of violation(s):

EXTERIOR MAINTENANCE of Home chipped and
Peeling PAINT

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

SCAPE and PAINT Home including SOFFIT and
FASCIA

You, the Property Owner, are requested to bring the Property into compliance. Failure to comply with this Notice may result in the Halifax Regional Municipality Ordering you to comply, remedying the violation at your expense and/or issuing a Summary Offence Ticket.

Notice of Re-inspection:

A property inspection will be performed on Aug 26 / 15 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.

HENRY BOUTILIER
Issuing Officer

26 06 15
Date (dd/mm/yy)

(902) 476-9215
Issuing Officer Phone Number

13:35
Time (hh/mm)

Original Signed
Issuing Officer Signature

229928
Case Number

For information on municipal legislation visit the HRM Website at www.halifax.ca/legislation or call the HRM Citizen Contact Centre at 311. If outside HRM but in NS call 1-800-835-6428 toll free.

HALIFAX

HALIFAX REGIONAL
MUNICIPALITY
JUN 06 2016
Original Signed
MUNICIPAL CLERK

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 32 ELWIN CRES, DARTMOUTH, NS,
PID # 00192765 Tax # 4972252 Case # 229928
Hereinafter referred to as the "Property"

TO: MAURITA L RICHEY
32 ELWIN CRES, DARTMOUTH, NS, B2W 3J6

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

AND WHEREAS located on the Property is an unsightly or dangerous condition due to a lack of exterior maintenance resulting in chipped and peeling paint and rotten wood components on the exterior of the home including the window and door trims, fascia, soffit and exterior walls, 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 rotten wood components and scraping and painting the exterior of the home including the window and door trims, fascla, soffit and exterior walls, 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 sixty (60) 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 in default of payment to imprisonment for a period of not more than two (2) months and every day during which the condition is not remedied is a separate offense.

DATED at Halifax, Nova Scotia this 6th of June, 2016 AD.

HENRY BOUTILIER
COMPLIANCE OFFICER
Phone: (902)476-9205 x

ERIN DOBSON
Administrator
Halifax Regional Municipality

Original Signed

**NOTICE OF APPEAL
'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 32 ELWIN CRESCENT, DARTMOUTH, NOVA SCOTIA, PID #00192765, Tax #4972252, Case #229928, Hereinafter referred to as "the Property"

TO: Halifax Regional Municipality, herein "HRM"
AND TO: Appeals Standing Committee of HRM

TAKE NOTICE that the owner(s) appeal the order of Erin Dobson, Administrator, HRM dated June 6, 2016, herein "the Order."

AND TAKE NOTICE that the grounds of appeal are:

1. The Property is not in a dangerous condition due to a lack of exterior maintenance.
2. The Property is not in an unsightly condition due to a lack of exterior maintenance.
3. Any chipped or peeling paint on the exterior of the home is neither dangerous nor unsightly.
4. There are no rotten wood components on the exterior of the home which are dangerous or unsightly.
5. The appearance of the exterior of the home is consistent with the exterior of other homes in HRM, and HRM has inconsistently applied its standards, if any, to the detriment of the owner(s).
6. The owner(s) put HRM to the strict proof of the allegations contained in the Order, none of which are admitted.
7. HRM has set an unreasonable period of sixty (60) days to complete the remedial work on the Property, and without admitting the allegations contained in the Order, the owner(s) agree to complete scraping and painting the exterior of the home including the window and door trims, fascia, soffit and exterior walls, within one hundred and twenty (120) days of the date of this Notice.
8. The Order fails to comply with the Charter, represents an abuse of the authority and powers granted to HRM under the Charter, and if implemented or acted upon, would result in a denial of natural justice for the owner(s).
9. Such other grounds as may appear from the evidence or under law.

AND TAKE NOTICE the owner(s) object to and reject the threats of penalty, fines, and

- 2 -

imprisonment as set out in the penultimate paragraph of the Order as an abuse of the authority and powers granted to HRM under the Charter, and a denial of natural justice for the owner(s).

AND TAKE NOTICE that the owner(s) request that the Appeals Standing Committee order that the Order under appeal be struck out in its entirety.

AND TAKE NOTICE that the owner(s) request that the Appeals Standing Committee order that the allegations or charges in the Order under appeal be dismissed.

AND TAKE NOTICE that the owner(s) require full and complete disclosure of all information held by HRM concerning the Property or the owner(s), including (and without restricting the generality of the foregoing), reports or records of all inspections, consultations, meetings, or other communications concerning the Property or the owner(s), photographs, emails or other information held digitally or otherwise, and for any information withheld or left undisclosed, a full description of same with details of justification for not disclosing same, and that the Appeals Standing Committee so order before any steps in this matter are taken, and that in default the Order under appeal be struck out.

AND TAKE NOTICE that the address of the owner(s) is set out below, at which address service of documents in this matter may be served as effectively as if served upon the owner(s) personally.

Signed at Dartmouth, Nova Scotia
June 12, 2016

Original Signed

MAURITA LORRAINE RICHEY

Original Signed

DAVID W. RICHEY

32 Elwin Crescent
Dartmouth, Nova Scotia B2W 3J6
Telephone 902-435-0420
Facsimile 902-463-4319

CANADA POST / POSTES CANADA		REGISTERED DOMESTIC CUSTOMER RECEIPT	RECOMMANDÉ RÉGIME INTÉRIEUR REÇU DU CLIENT	R
To / Destinataire	Name / Nom	CONFIRMATION DE RÉGISTRATION CONFIRMATION DE RÉGISTRATION www.canadapost.ca / www.postescanada.ca 1 888 550-6333		
Address / Adresse	City / Prov. / Postal Code / Ville / Prov. / Code postal	CPC Tracking Number / Numéro de suivi de la CCP RN 133 167 037 CA		
Permis / Permis / Valeur / Valeur \$		33-086-584 (14-06)		

August 3, 2016

REGISTERED MAIL

Lorraine Richey
32 Elwin Crescent
Dartmouth, NS B2W 3J6

Re: Case #229928, Property located at 32 Elwin Crescent, Dartmouth

Ms. Richey

As per our telephone conversation of August 3, 2016, your appeal has been rescheduled to **10:00 a.m. on Thursday, September 8, 2016**. The hearing will be held in the Council Chamber, 3rd Floor, City Hall, 1841 Argyle Street, Halifax.

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 902-490-8519.

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
- Laurie Lauder, Adjudication Clerk
- Natalie Matheson, Adjudication Clerk
- Henry Boutilier, Compliance Officer

Enclosure: Order of Proceedings for Appeals Standing Committee

Appendix F

REGISTERED MAIL

September 20, 2016

Lorraine Richey
32 Eiwin Crescent
Dartmouth, NS B2W 3J6

CANADA POSTS POST CANADA		REGISTERED DOMESTIC	RECOMMANDÉ RÉGIME INTÉRIEUR	R
		CUSTOMER RECEIPT	REÇU DU CLIENT	
No	Destinataire			
Name	Nom			
Address	Adresse			
City / Prov. / Postal Code	Ville / Prov. / Code postal			
Declared Value Valeur déclarée	\$			
33-086-584 (14-06)		RN 133 171 249 CA		

FOR DELIVERY CONFIRMATION
www.canadapost.ca
1 888 550-6333

CONFIRMATION DE LIVRAISON
www.postescanada.ca
1 888 550-6333

CPC Tracking Number
Nombre de suivi de la CCP

Re: Case #229928, Property located at 32 Eiwin Crescent, Dartmouth

Ms. Richey,

The Appeals Standing Committee granted your request to reschedule your hearing for Case 229928 at their September 8, 2016 meeting. Your appeal will now be heard at 10:00 a.m. on Thursday, October 6, 2016. The hearing will be held in the Council Chamber, 3rd Floor, City Hall, 1841 Argyle Street, Halifax.

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
Laurie Lauder, Adjudication Clerk
Natalie Matheson, Adjudication Clerk
Henry Boutiller, 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