

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

Item No. 12.1.1
Appeals Standing Committee
April 12, 2018

TO: Chair and Members of Appeals Standing Committee

SUBMITTED BY: *-Original Signed-*

Steve Higgins, Acting Director, Planning & Development

DATE: March 20, 2018

SUBJECT: Appeal Report – Cases 305788 (derelict vehicles), 306139 (debris) and 306140 (accessory structure), 6491 Highway 7, Gaetz Brook, NS

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.

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.

-Original Signed-

BACKGROUND:

There have been twelve previous dangerous or unsightly cases at the property dating back to 2006. Ten cases were closed as owner compliance and one case was closed with a Summary Offence Ticket issued and upheld in court.

A complaint was received by service request on January 16, 2018. The complainant stated concerns with numerous derelict vehicles stored at the property.

There were three Orders issued to the property owner. The property owner submitted an appeal for all three Orders.

This report will focus on the appeal dated February 15, 2018 by the property owner of the Orders to Remedy for Case # 305788 (derelict vehicles), Case # 306139 (debris) and Case # 306140 (accessory structure).

CHRONOLOGY OF CASE ACTIVITIES:

22-Jan-2018 The Compliance Officer conducted a site inspection at 6491 Highway 7, Gaetz Brook, NS hereinafter referred to as “the property” (attached as Appendix B). The Compliance Officer noted derelict vehicle and debris violations. The Compliance Officer spoke to the property owner and suggested they conduct a joint site inspection to review the vehicles and work required to bring the property into compliance.

The property owner declined the Compliance Officer’s offer and stated that he has been towing vehicles back to the property for the past 60 years and has spoken to HRM staff regarding a permit for the property.

After the Compliance Officer left the property and was pulled over on the side of the road, the property owner’s son approached the vehicle and was argumentative and used foul language towards the Compliance Officer. The property owner’s son indicated they were not willing to work with HRM or complete any work at the property.

23-Jan-2018 The Compliance Officer confirmed through HRM records that there are no permits for business activity or placement of commercial containers at the property.

29-Jan-2018 The Compliance Officer conducted a site inspection and noted 32 derelict vehicles, an accumulation of assorted debris and a deteriorated accessory structure with broken windows located at the property. The Compliance Officer attempted to discuss the violations with the property owner, however the property owner was threatening and used foul language towards the Officer.

09-Feb-2018 The Compliance Officer conducted a site inspection and noted no change to the condition of the property. The Compliance Officer attempted to speak with the property owner and hand deliver three Orders to Remedy (attached as Appendix C, D, and E). The property owner would not accept the Orders. The Compliance Officer posted the Orders at the property.

The property owner’s son arrived at the property was argumentative with the Compliance Officer and tore up the Orders that were posted at the property.

When the Compliance Officer returned to the office, copies of the Orders were sent via registered mail to the property owner.

15-Feb-2018 The property owner submitted a Notice of Appeal (attached as Appendix F) to the Municipal Clerk’s Office.

20-Feb-2018 The Municipal Clerk's Office sent the property owner a letter (attached as Appendix G) advising the appeal would be heard at the April 12, 2018 Appeals Standing Committee meeting.

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 Order to Remedy (derelict vehicles) dated February 9, 2018
- Appendix D: Copy of the Order to Remedy (debris) dated February 9, 2018
- Appendix E: Copy of the Order to Remedy (accessory structure) dated February 9, 2018
- Appendix F: Copy of the Notice to Appeal dated February 15, 2018
- Appendix G: Copy of the letter from the Clerk's Office dated February 20, 2018

A copy of this report can be obtained online at Halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared For: Trevor Oliver, Compliance Officer II, By-law Standards, 902.476.4257

-Original Signed-

Report Approved By: _____
Penny J. Henneberry, Manager, Buildings and Compliance, 902.579.0250

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:

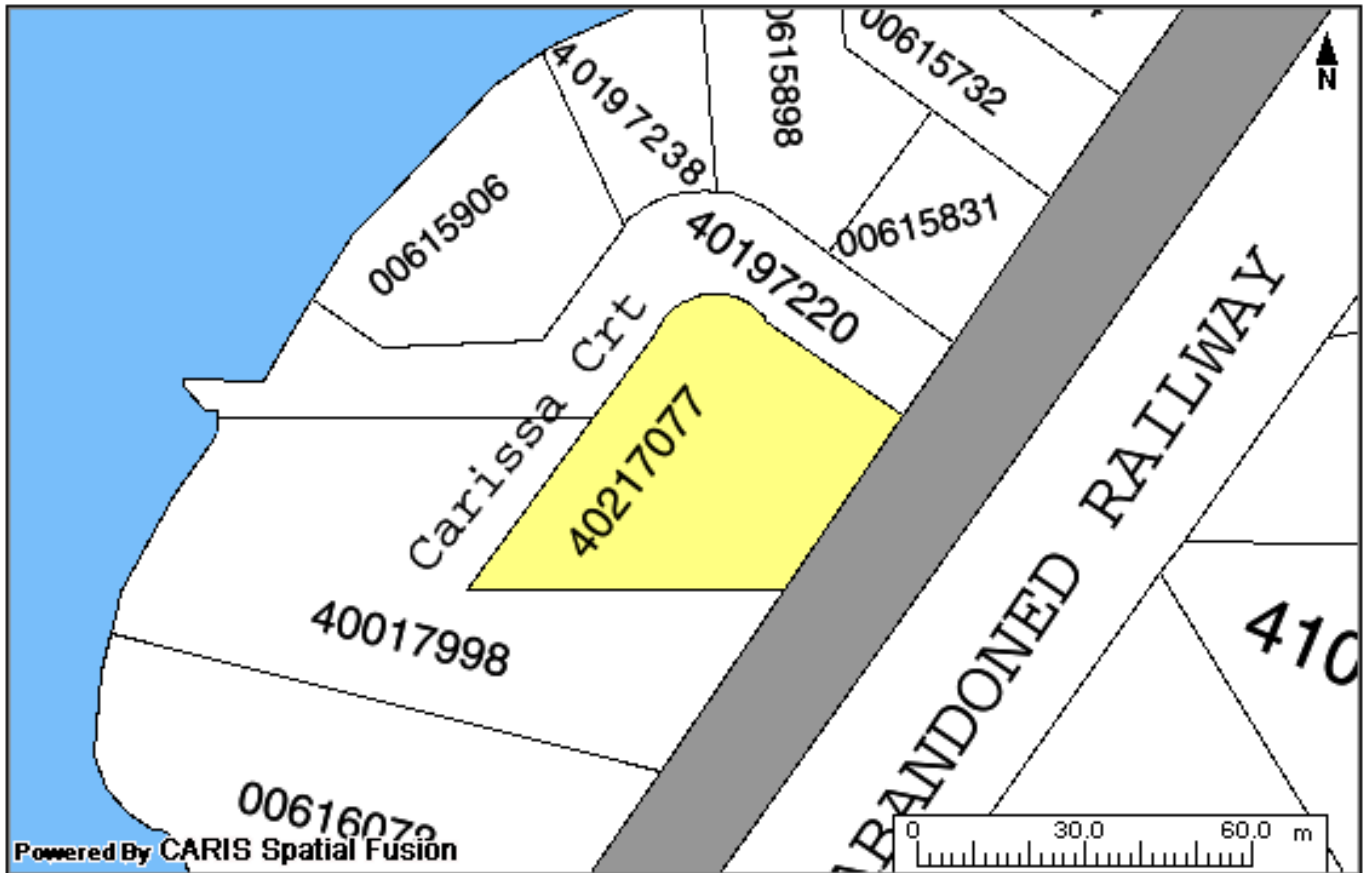
- (q) "dangerous or unsightly" means partly demolished, decayed, deteriorated or in a state of disrepair so as to be dangerous, unsightly or unhealthy, and includes property containing
- (i) ashes, junk, cleanings of yards or other rubbish or refuse or a derelict vehicle, vessel, item of equipment or 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,
 - (iii) 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;

APPENDIX B



Property Online Map

Date: Mar 1, 2018 3:26:34 PM



PID: 40217077 Owner: MADONNA MACLEAN AAN: 02863944
County: HALIFAX COUNTY CARLETON MACLEAN Value: \$245,500 (2018 RESIDENTIAL TAXABLE)
LR Status: LAND REGISTRATION Address: 6491 HIGHWAY 7
GAETZ BROOK

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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APPENDIX C

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 6491 HIGHWAY 7, GAETZ BROOK, NS,
PID # 40217077 Tax # 2883944 Case # 305788
Hereinafter referred to as the "Property"

TO: MADONNA MACLEAN & CARLETON MACLEAN
6491 HIGHWAY 7, GAETZ BROOK, NS, B0J 1N0

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

AND WHEREAS located on the Property is an unsightly or dangerous condition due to the following vehicles deemed derelict due to the fact that they appear to be disused or abandoned by reason of their age, appearance, mechanical condition or their lack of licence plates or current vehicle registration: blue Dodge Caravan, blue Chevrolet Epica, silver Volvo 240 GL, red Ford Super Duty Tow Truck, green Saturn Ion, beige Pontiac Sunfire, blue Chevrolet 3500, purple Ford Ranger, red GMC Safari, yellow Excavator, purple Buick Century, teal BMW four door sedan, black Ford Escape, an orange S-2500, green Chevrolet Aveo, green Toyota Echo, Red Ford Ranger, red GMC Savana, white Chevrolet Express, blue Hyundai Accent, black BMW 4 door sedan, two tone white and green boat, silver Kia Sorento, black ford F-250, red Volvo 540, green Plymouth Voyager silver Ford Freestar, blue Mazda Tribute, two tone white and blue Ford Econoline 150, white Pontiac Montana, blue Saturn 4 door sedan, black Chevrolet Optra, silver Pontiac Wave, and a red Dodge Caravan, 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 all the derelict vehicles, 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 fourteen (14) 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 9th of February, 2018 AD.

ORIGINAL SIGNED

TREVOR OLIVER
COMPLIANCE OFFICER
Phone: (902)478-4257 x

SCOTT HILL
Administrator
Halifax Regional Municipality

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 6491 HIGHWAY 7, GAETZ BROOK, NS,
PID # 40217077 Tax # 2883944 Case # 306139
Hereinafter referred to as the "Property"

TO: MADONNA MACLEAN & CARLETON MACLEAN
6491 HIGHWAY 7, GAETZ BROOK, NS, B0J 1N0

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

AND WHEREAS located on the Property is an unsightly or dangerous condition due to an accumulation of debris including but not limited to assorted construction materials, automotive parts, equipment, machinery, tools, scrap wood, metal, plastic, wheels, tires, lawn chairs, gas cans, milk crates, pylons, Styrofoam, tarpaulin, rubber and carpet mats, saw table, glass, bicycles, wheels barrel, buckets, shelves, trolley, metal chairs, wires, loose, bottles, oil containers, ladders, pallets, sinks, lights, bags of recyclables, bags of solid waste, fuel tanks, lawn mower, litter and 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 accumulation of debris including but not limited to assorted construction materials, automotive parts, equipment, machinery, tools, scrap wood, metal, plastic, wheels, tires, lawn chairs, gas cans, milk crates, pylons, Styrofoam, tarpaulin, rubber and carpet mats, saw table, glass, bicycles, wheels barrel, buckets, shelves, trolley, metal chairs, wires, loose, bottles, oil containers, ladders, pallets, sinks, lights, bags of recyclables, bags of solid waste, fuel tanks, lawn mower, litter and 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 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 fourteen (14) 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 9th of February, 2018 AD.

TREVOR OLIVER
COMPLIANCE OFFICER
Phone: (902)476-4257 x

ORIGINAL SIGNED
SCOTT HILL
Administrator
Halifax Regional Municipality

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., 2009 , C.30
Hereinafter referred to as the "Charter"

- and -

IN THE MATTER OF: Property located at 6491 HIGHWAY 7 , GAETZ BROOK, NS,
PID # 40217077 Tax # 2863944 Case # 306140
Hereinafter referred to as the "Property"

TO: MADONNA MACLEAN
6491 HIGHWAY 7, GAETZ BROOK, NS, B0J 1N0
CARLETON MACLEAN
6491 HIGHWAY 7, GAETZ BROOK, NS, B0J 1N0

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 to the wooden accessory shed resulting in but not limited to rotten and deteriorating wooder cladding, missing exterior cladding, deteriorating fascia and trims, broken glass windows and other deteriorating features, in accordance with Section 3(c) of the Charter;

TAKE NOTICE that you are hereby Ordered to remedy the condition of the Property by repairing or replacing the rotten and deteriorating wooden cladding, missing exterior cladding, deteriorating fascia and trims, broken glass windows and other deteriorating features, 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, B0J 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 fourteen (14) 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 9th of February, 2018 AD.

ORIGINAL SIGNED

TREVOR OLIVER
COMPLIANCE OFFICER
Phone: (902)478-4257 x

SCOTT HILL
Administrator
Halifax Regional Municipality

APPENDIX F

Carleton & Madonna MacLean
6491 Highway #7
Gaetz Brook, Nova Scotia
B0J 1N0

VALID

Trevor Oliver
Compliance Officer
Phone 902.476.4257
Halifax Regional Municipality

Case #306140, #306139, #305788

Dear Mr. Oliver

Please accept this letter by fax as my appeal - to the Appeals standing committee of the Halifax Regional Municipality.

My wife and I are presently in our mid 80's - ~~and we are both in poor health~~ - so I do apologize if ~~we have not been able to get around~~ find it difficult to get around therefore things on the "property" have been neglected. We would like time - perhaps May or June for us to arrange to have someone help us - when it's not too cold out....not in the dead of winter....

Thank you very much,

← ORIGINAL SIGNED _____

Carleton & Madonna MacLean
6491 Highway #7

APPENDIX G

REGISTERED MAIL

February 20, 2018

Carleton & Madonna MacLean
6491 Highway #7
Gatez Brook, NS B0J 1N0

REGISTERED DOMESTIC CUSTOMER RECEIPT		RECOMMANDÉ RÉGIME INTÉRIEUR		R
Nom		Destinataire		
Adresse		Adresse		RN 190 914 700 CA
City / Ville / Postal Code		Ville / Postal Code		
RN 190 914 700 CA		RN 190 914 700 CA		

Re: Cases 306140, 306139 and 305788, 6491 Highway #7, Gatez Brook

This is to confirm that your appeal has been scheduled and will be heard by the Appeals Standing Committee on **Thursday, April 12, 2018**. 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, April 5, 2018. If you require a hard copy of the report, please contact our office.

<https://www.halifax.ca/city-hall/agendas-meetings-reports?category=131>

Should you be unable to attend, you may have a representative attend to speak to the Committee at the hearing. Please note that your representative is required to have a letter signed by you giving permission. You or your representative 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
Natalie Matheson, Adjudication Clerk
Trevor Ollier, 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

Order of Proceedings for Appeals Standing Committee

The Chair will open each of the hearings and address the following:

- The Chair will ask the Appellant (property owner/taxi licence holder) to identify themselves and provide their contact information
- If a person is appearing on behalf of an Appellant who is not present (legal counsel, family member, friend), they must provide written authorization to act on the Appellant's behalf
- The Chair will briefly explain the hearing will proceed (as follows):
- **Staff Presentation:** The HRM staff presenter explains the basis for the order under review and presents evidence in support of the order (including any documents or recent photos of the property, if applicable)
- The Committee may ask questions of the HRM staff presenter for clarification
- The Appellant may ask questions of the HRM staff presenter for clarification
- Non-party witnesses* may be permitted to provide factual evidence relevant to the appeal
- The Appellant may ask questions of non-party witnesses for clarification
- **Appellant's Presentation:** The Appellant is granted reasonable time to present evidence in support of the appeal (documents/photos/witnesses)
- The Committee may ask questions to the Appellant and/or their witnesses
- The Appellant or his/her representative is then permitted up to 10 minutes to make a verbal submission in support of their case to reverse the order
- The Committee may ask questions to the Appellant and also further questions of HRM staff (subject to Appellant's response to the answers)
- Staff may ask questions to the Appellant (subject to Appellant's response to the answers)
- The Committee then debates their decision and renders a decision with the Appellant or his/her representative present
- Upon motion the Committee may move In Camera (In Private) to obtain confidential legal advice at any time during the process
- The Committee has four (4) alternatives:
 - cancel the order (allow the appeal)
 - amend the order (change the conditions)
 - keep the order as is (appeal dismissed)
 - continue the hearing at a later date (defer)

*Non-Party Witnesses

Persons who are not parties to the appeal may be permitted to provide relevant evidence of factual matters within their personal knowledge to the Appeals Standing Committee. Non-party witnesses will be given an appropriate amount of time to present their information.

Please note that hearings of the Appeals Standing Committee are open to the public and any information, including personal information, that is provided or obtained in relation to your appeal will be a matter of public record.

The Appeals Standing Committee meetings begin at 10 a.m. and cases will be heard as they appear on the approved agenda.