

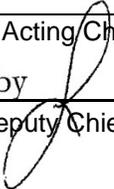
# HALIFAX

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

**Item No. 14.1.4**  
**Halifax Regional Council**  
**February 16, 2016**

**TO:** Mayor Savage and Members of Halifax Regional Council  
Original Signed by 

**SUBMITTED BY:** \_\_\_\_\_  
John Traves, Q.C., Acting Chief Administrative Officer  
Original Signed by \_\_\_\_\_  
Mike Labrecque, Deputy Chief Administrative Officer

**DATE:** January 5, 2016 

**SUBJECT:** Street Right-of-Way Acceptance, Crescent Avenue, Halifax, NS

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## **ORIGIN**

This report originates as a request from a legal representative of David W. Rackham seeking to purchase, or acquire a limited property right, over a portion of Halifax Regional Municipality (HRM) property PID 41218777.

## **LEGISLATIVE AUTHORITY**

Halifax Regional Municipality Charter, Chapter 39, Section 318 (3); No road, or allowance for a road, becomes a street until Regional Council formally accepts the road or allowance, or the road or allowance is vested in the Municipality according to law.

## **RECOMMENDATION**

It is recommended that Halifax Regional Council designate a portion of HRM-owned property, PID 41218777, as right-of-way for the purpose of consolidation with Crescent Avenue.

## **BACKGROUND**

The subject property (PID 41218777) was granted to the HRM by the Province of Nova Scotia (Natural Resources) in July 2007 for the purpose of securing HRM's historical access and right-of-way to the existing pumping station which exists on PID 300145 (outlined red #3 in Attachment A). However, following the acquisition, the process of formal acceptance of the right of way was not completed for reasons unknown.

In early 2014, a legal representative of David W. Rackham approached the Municipality to confirm the right of way over a portion of Halifax Regional Municipality (HRM) property PID 41218777. Mr. Rackham is the owner of 25 Crescent Avenue, a single-family home that is located in Halifax across from Chocolate Lake, and outlined green in Attachment 'A', comprising PID 300137 and PID 41148008. Mr. Rackham has been accessing his home over HRM property, PID 41218777 (outlined red #1 in Attachment A), a paved parcel adjacent north of his home which permits access to a municipal pumping station and public dock which extends into Chocolate Lake.

The intention of Mr. Rackham's request is to secure land, or a property right, from HRM for the purpose of accessing the Crescent Avenue right-of-way. Mr. Rackham's property at 25 Crescent Avenue does not presently have direct frontage on to a former street, as shown in Attachment 'A'. Staff could not establish the reason why the Crescent Avenue right-of-way ends before 25 Crescent Avenue; however, it has been agreed that it does. It is understood that the proponent's lots were approved based on frontage to a road reserve, formerly known as Elfwood Road, which was a proposed road at the rear of the property and subsequently never developed as a street. The current form of this proposed road reserve can be characterized as physically challenged due to slope; privately-owned; heavily treed and undeveloped.

Mr. Rackham's property shares an east, north, and western property line with HRM property PID 300145, PID 41218777, and PID 300129, respectively (outlined red on Attachment A as #1, #2, #3). PID 300129 is a service corridor containing Halifax Regional Water Commission (HRWC) storm sewer infrastructure. PID 41218777 is also a service corridor which contains HRWC sanitary force mains, storm sewer inlets to Chocolate Lake, and a water main; this parcel also forms the primary access point to PID 300129 from the Crescent Avenue right-of-way. PID 300129 is the location of a HRWC sanitary pumping station and sanitary sewer force main.

During the course of discussions with Mr. Rackham's legal representative and with HRWC regarding their aforementioned infrastructure, Canada Post contacted the Municipality regarding a proposed location which they've deemed feasible for locating their mail boxes to appropriately service the Crescent Avenue residents. As shown on Attachment 'B', the Canada Post mail boxes are located on HRM property PID 41218777, in front of an existing guard rail. Public traffic, vehicular and pedestrian, is expected to have increases as a result of this placement of Canada Post mail boxes.

## **DISCUSSION**

In addition to the access request by Mr. Rackham over the property, HRM and HRWC have agreed to proceed with blanket service easements, in favour of HRWC, to provide the appropriate property rights for their infrastructure over the entirety of PID 300145, PID 41218777, and PID 300129. Upon receipt of the request from Canada Post to place a community mail box on PID 41218777, staff is recommending to Regional Council to approve the formal acceptance of a portion of PID 41218777, as shown outlined red in Attachment 'B'.

There are two methods of creating a municipal right-of-way: first, the acceptance of right-of-way may occur through the subdivision process; and two, right-of-way may be formally accepted by Regional Council, as is the case in this instance.

Formally accepting a portion of PID 41218777 as an extension of the Crescent Avenue right-of-way would resolve the following outstanding property issues:

1. Conclude the right-of-way acceptance and establishment initially intended in the July 2007 acquisition from the Province of Nova Scotia; and
2. HRWC subsurface service infrastructure beneath PID 41218777 would be protected and become a part of an HRM right-of-way; and
3. Canada Post mail boxes, their location, and public traffic would fall within a public right-of-way; and
4. Mr. Rackham would have frontage on the newly created extension of Crescent Avenue right-of-way.

If the subject property was designated by Regional Council as street right-of-way, the primary public benefit would be captured by the local community and those residents that will frequently access the street to collect their Canada Post items. Further, this section of the subject property is already included as part of the regular maintenance and snow clearing schedules for Crescent Avenue. The proposed use of the subject property as a public street fits well within the confines of the HRM Charter interpretation of a street which states:

*“...“Street” means a public street, highway, road, lane, sidewalk, thoroughfare, bridge, square and the curbs, gutters, culverts and retaining wall in connection therewith...”*

The total paved area that staff is requesting from PID 41218777 to be formally accepted into the Crescent Avenue right-of-way is approximately 2,000 square feet, extending from the western boundary of the parcel to the edge of Chocolate Lake and just after the existing guard rail. The balance of PID 41218777 has not been included in the right-of-way requirement as it forms the driveway for HRWC pumping station. The existing physical character of PID 41218777 has been reviewed by staff and it was determined that the pavement and guard rails are in good condition which do not require short term investment by HRM. Although the street is in good condition, it does not meet the current HRM street right-of-way standards; however, giving consideration to reasons stated herein, staff is recommending that Regional Council accept this portion of PID 41218777 as street right-of-way. HRM Survey Services will complete the required survey plan for the purpose of consolidating the requested right-of-way to Crescent Avenue.

### **FINANCIAL IMPLICATIONS**

Financial implications associated with the recommendation of this report include a subdivision application fee for a survey plan to delineate the area required for right-of-way and will cost \$100.00 to be paid from W400 – 6306. HRM Survey Services will complete the survey plan. Staff time/resources required from Legal Services, CRE, and Survey Services will be absorbed by existing operating budgets.

### **COMMUNITY ENGAGEMENT**

Community engagement is not necessary in the formal acceptance of street right-of-way by Regional Council.

### **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with the recommendation of this report.

**ALTERNATIVES**

Regional Council may choose not to accept that portion of HRM property, PID 41218777, as formal right-of-way shown in Attachment 'B'; staff would proceed with an access easement for Mr. Rackham and service easement with HRWC. As accepting portion of PID 41218777 as formal street right-of-way would negate the necessity of each of the preceding actions, therefore, this alternative is not recommended. Regional Council may choose to accept all of HRM property, PID 41218777, as formal right-of-way shown in Attachment 'B'; however, this is not recommended for reasons stated in the body of this report.

**ATTACHMENTS**

Attachment A – Location Map

Attachment B – Proposed Right-of-Way Acceptance

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A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.php> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Brad Bakke, Senior Real Estate Officer, Corporate Real Estate, Operations Support  
902-490-5332

Report Reviewed by: \_\_\_\_\_  
David Hubley, Manager, Design and Construction, Transportation & Public Works  
902-490-4845

Report Approved by: \_\_\_\_\_  
Peter Stickings, Manager, Corporate Real Estate, Operations Support  
902-490-7129

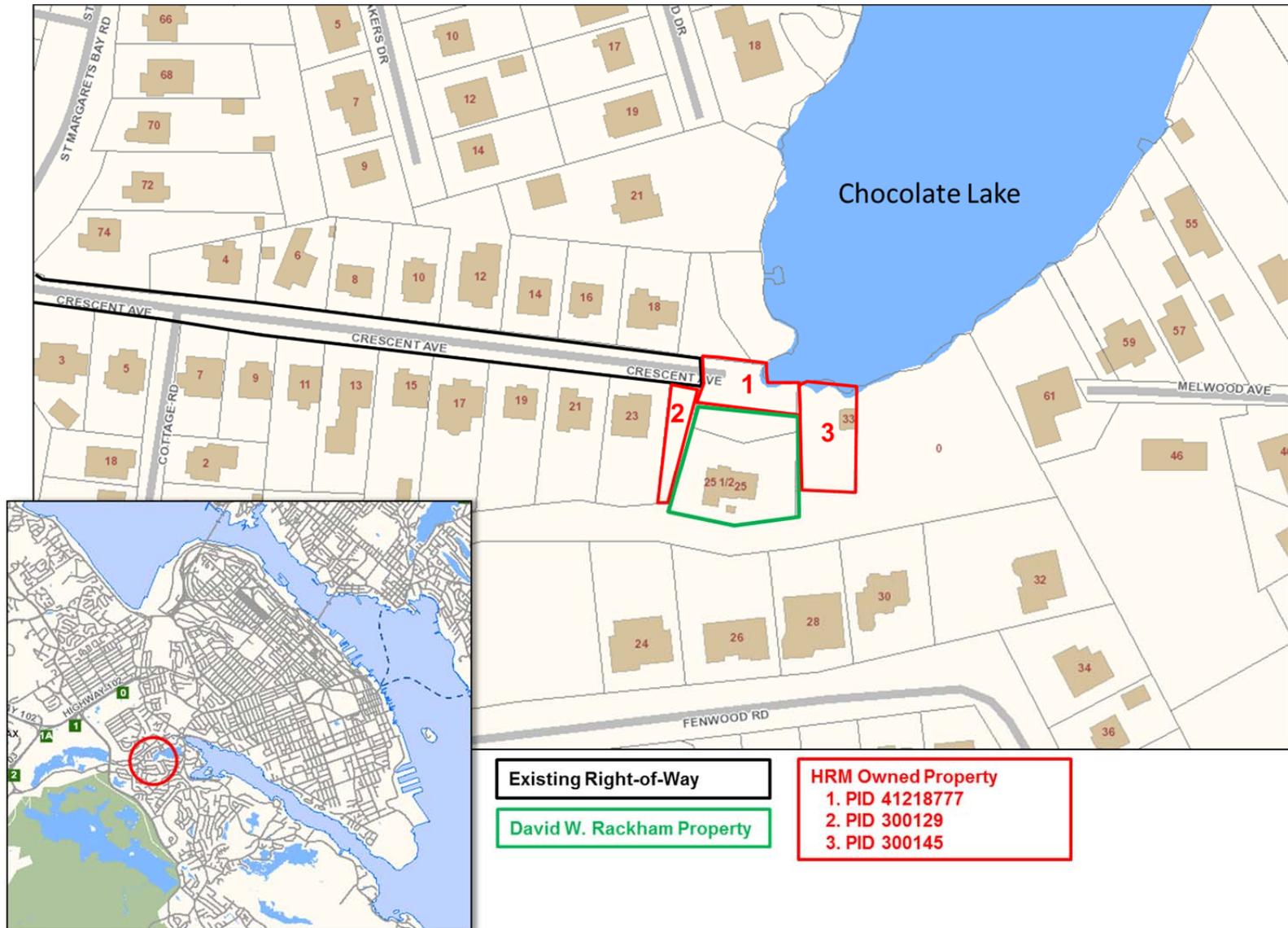
Financial Approval by: \_\_\_\_\_  
Jane Fraser, Acting Director for Amanda Whitewood, Director of Finance & ICT/CFO,  
902.490.6508

Report Approved by: \_\_\_\_\_  
Jane Fraser, Director, Operations Support, 902-490-7166

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## ATTACHMENT 'A' Location Map



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## ATTACHMENT 'B' Proposed Right-of-Way Acceptance

