



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

Item No. 8.1.2
Appeals Standing Committee
September 13, 2018

TO: Chair and Members of Appeals Standing Committee

ORIGINAL SIGNED

SUBMITTED BY: _____
Kelly Denty, Director, Planning & Development

DATE: August 21, 2018

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

SUPPLEMENTARY REPORT

ORIGIN

Appeal of an Order to Remedy the condition of a property pursuant to the Dangerous or Unsightly provisions of 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.

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 for violations at the property. The property owner appealed and the cases were heard at the April 12, 2018 Appeals Standing Committee meeting. The Committee deferred the cases until the August 2, 2018 meeting to allow the property owner additional time to complete the work. The property owner contacted the Municipal Clerk and requested to reschedule the appeal to the September 13, 2018 meeting as they were unavailable to attend the August meeting.

The property is zoned RE- Rural Enterprise and a review of the Hansen database system shows there are no permits issued to the property owner for this property.

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 SUBSEQUENT TO THE APRIL APPEALS STANDING COMMITTEE MEETING:

- 06-Jul-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 no change to the condition of the property.
- 10-Jul-2018 The Compliance Officer received a voicemail from a family member of the property owner requesting a callback.
- 11-Jul-2018 The Compliance Officer received a voicemail from a family member of the property owner requesting a callback.
- 12-Jul-2018 The Compliance Officer spoke to the property owner’s family member about what was required to bring the property into compliance and the appeals process.
- 19-Jul-2018 The Compliance Officer conducted a site inspection and noted no change to the condition of the property.
- 20-Jul-2018 The Compliance Officer received a voicemail from another family member of the property owner requesting a callback.

The Municipal Clerk’s Office sent the property owner a letter advising the appeal would be heard at the August 2, 2018 Appeals Standing Committee meeting.
- 21-Jul-2018 The Compliance Officer spoke to the property owner’s family member and explained what was required to bring the property into compliance.
- 31-Jul-2018 The Compliance Officer spoke to the property owner’s family member who advised that they were unavailable for the August 2, 2018 Appeals Standing Committee meeting. The family member stated that they would be requesting the Municipal Clerk to reschedule to the September meeting.

The Compliance Officer walked the property with a family member and noted the work that was required to bring the property into compliance. The Compliance Officer noted improvements had been made to the condition of the property however, there were violations that needed to be addressed.

03-Aug-2018 The Municipal Clerk's Office sent the property owner a letter (attached as Appendix C) advising that the appeal would be heard at the September 13, 2018 Appeals Standing Committee meeting.

17-Aug-2018 The Compliance Officer conducted a site inspection and noted no change to the condition of the property. The Compliance Officer spoke to the property owner who requested more time before going to the Appeals Standing Committee meeting. The Compliance Officer confirmed the case is scheduled to go forward to the September 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 Appeals Standing Committee may vary or overturn the Order to Remedy and in doing so, must provide reasons to be recorded in the minutes of the committee meeting.

RISK CONSIDERATIONS

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

ENVIRONMENTAL IMPLICATIONS

No environmental implications identified.

ATTACHMENTS

Appendix A: Legislative Authority – Halifax Regional Municipality Charter
Appendix B: Copy of the Nova Scotia Property Records Map
Appendix C: Copy of the letter from the Clerk's Office dated August 3, 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,
 - (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: Aug 16, 2018 12:58:28 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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REGISTERED MAIL

August 3, 2018

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

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|---|--|--|--|---|
|  | | REGISTERED DOMESTIC CUSTOMER RECEIPT | RECOMMANDÉ RÉGIME INTÉRIEUR REÇU DU CLIENT |  |
| To Name | | Destinataire Nom | FOR DELIVERY CONFIRMATION CONFIRMATION DE LA LIVRAISON www.canadapost.ca www.postescanada.ca or/ou | |
| Address | | Adresse | 1 888 550-6333 | |
| City / Prov. / Postal Code | | Ville / Prov. / Code postal | CPC Tracking Number Numéro de repérage de la SCP RN 190 914 571 CA | |
| Declared Value Valeur déclarée | | \$ | 33-086-584 (14-06) | |

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

This letter confirms that the Appeals Standing Committee rescheduled your hearing dates for the cases identified above **to be heard on the September 13, 2018**, meeting of the Appeals Standing Committee. 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, September 6, 2018. 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 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 902-490-6517.

Sincerely,

ORIGINAL SIGNED

Simon Ross-Siegel
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 Oliver, Compliance Officer II
- Karen MacDonald, Solicitor, HRM Legal Services