



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

Item No. 12.1.1
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 23, 2018

SUBJECT: Appeal Report – Case #313962, 110 Montague Road, Lake Loon

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 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. Eleven of the cases were closed as owner compliance.

A complaint was received by service request on November 23, 2017. The complainant stated concerns about a shed on the property.

A Demolition Order was requested for a shed on the property and was heard at the April 12, 2018 Appeals Standing Committee meeting. An amended Order of 45 days was granted at the request of the property owner. The property owner failed to bring the property into compliance and the shed was demolished and the case was closed as remedy complete.

This report will focus on the appeal dated July 16, 2018 by the property owner of the Order to Remedy for debris under Case #313962 issued on July 13, 2018.

CHRONOLOGY OF CASE ACTIVITIES:

- 07-Jul-2018 The Compliance Officer conducted a site inspection at 110 Montague Road, hereinafter referred to as “the property” (attached as Appendix B). The Compliance Officer noted debris under the deck that must be removed to bring the property into compliance.
- 12-Jul-2018 The Compliance Officer contacted the property owner and advised of what was required to bring the property into compliance. The property owner was upset about being required to remove the items. The Compliance Officer explained that an order would be posted at the property.
- 13-Jul-2018 The Compliance Officer conducted a site inspection and noted no change to the condition of the property. A 7-day Order to Remedy for debris violations (attached as Appendix C) was posted to the property. A copy was also sent via registered mail.
- 16-Jul-2018 The property owner submitted a Notice of Appeal (attached as Appendix D) to the Municipal Clerk’s Office.
- 17-Jul-2018 The Municipal Clerk’s Office sent the property owner a letter (attached as Appendix E) advising 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 debris violations.
- 21-Aug-2018 The Compliance Officer conducted a site inspection and noted no change to the debris violations. There was no response to knocking at the door. A detailed voice mail was left for the property owner requesting a call back.

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 Order to Remedy (debris) dated July 13, 2018
- Appendix D: Copy of the Notice to Appeal dated July 16, 2018
- Appendix E: Copy of the letter from the Clerk's Office dated July 17, 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: Carrie Butler, Compliance Officer II, By-law Standards, 902.476.1080

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;

Appendix B



Property Online Map

Date: Aug 16, 2018 1:18:37 PM



PID:	00620997	Owner:	JOSEPH TERRANCE CHISHOLM	AAN:	04154134
County:	HALIFAX COUNTY		EILEEN LORRAINE CHISHOLM	Value:	\$197,500 (2018 RESIDENTIAL TAXABLE)
LR Status:	LAND REGISTRATION	Address:	110 MONTAGUE ROAD LAKE LOON		

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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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 110 MONTAGUE RD, LAKE LOON, NS,
PID # 00620997 Tax # 4154134 Case # 313962
Hereinafter referred to as the "Property"

TO: EILEEN LORRAINE CHISHOLM, 110 MONTAGUE RD, LAKE LOON, NS, B2W 3P3
JOSEPH TERRANCE CHISHOLM, 110 MONTAGUE RD, LAKE LOON, NS, B2W 3P3

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 discarded furniture, an antique furniture item, bags of recyclables, tarps, freezer, large accumulation of wood pieces, sheets of glass, boxes, plastic laundry baskets, shelving units, tires, cabinets, totes, various tools, ladders, cushions, cloth bags, exercise equipment, fan, discarded storm door, spreader, 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 discarded furniture, an antique furniture item, bags of recyclables, tarps, freezer, large accumulation of wood pieces, sheets of glass, boxes, plastic laundry baskets, shelving units, tires, cabinets, totes, various tools, ladders, cushions, cloth bags, exercise equipment, fan, discarded storm door, spreader, and any 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 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 13th of July, 2018 AD.

CARRIE BUTLER
COMPLIANCE OFFICER
Phone: (902)476-1080 x

ORIGINAL SIGNED

ERIN DOBSON
Administrator
Halifax Regional Municipality

Appendix D

JT Chisholm
110 Montague Rd.
Lake Loon MS
B2W 3P3
Phone #
[REDACTED]

To
Municipal Clerk City Hall
Re. Case # 3139621

I returned home today to find this order to remedy on my door..I wish to appeal this to the Appeals Standing Committee of HFW.

Thank You
JT Chisholm

ORIGINAL SIGNED

[Handwritten signature]

COPY

July 17, 2018

REGISTERED MAIL

Eileen Lorraine Chisholm
Joseph Terrance Chisholm
110 Montague Road
Lake Loon, NS B2W 3P3

CANADA POST / POSTES CANADA		REGISTERED DOMESTIC CUSTOMER RECEIPT	RECOMMANDÉ RÉGIME INTÉRIEUR REQU DU CLIENT	R
To / Destinataire	Name / Nom	POUR DELIVRER / DELIVERER LE LIVRABLE / LE LIVRAGE www.canadapost.ca / www.postescanada.ca 1 888 550-6333		
Address / Adresse	City / Prov. / Postal Code / Ville / Prov. / Code postal	CFO Tracking Number / Numéro de suivi de la CCP		
Declared Value / Valeur déclarée	\$	RN 190 914 554 CA		

Re: Case 313962, Property located at 110 Montague Road, Lake Loon

This is to advise that your appeal will be heard by the Appeals Committee on Thursday, September 13, 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 this case will be posted online to the Appeals Standing Committee agenda page by end of day Thursday, September 6, 2018. <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 902-402-0456, or Carrie Butler at 902-476-1080.

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
- Penny Henneberry, Manager, Planning & Development - Municipal Compliance
- Paula Amaral, Administrative Assistant II, Municipal Compliance
- Natalie Matheson, Adjudication Clerk
- Carrie Butler, Compliance Officer

Enclosure: Order of Proceedings for Appeals Standing Committee

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Halifax Regional Municipality
909008 1749, Halifax, Nova Scotia B3J 3A5
Canada B3J 3A5

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