



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

Item No. 8.1.1
Appeals Standing Committee
October 11, 2018
November 1, 2018
January 17, 2019

TO: Chair and Members of Appeals Standing Committee

SUBMITTED BY: **ORIGINAL SIGNED**

Kelly Denty, Director, Planning & Development

DATE: September 26, 2018

SUBJECT: **Appeal Report – Case 315875, 12 Forest Road, Dartmouth**

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 eleven previous dangerous or unsightly cases at the property dating back to 2006; all cases were closed as owner compliance.

A complaint was received by service request on August 10, 2018. The complainant stated concerns with a derelict vehicle stored at the property and long grass.

The property is zoned R-1 and a review of the HRM permit database system shows there are no permits issued to the property owner for this property.

This report will focus on the appeal dated September 18, 2018 by the property owner of the Order to Remedy for Case # 315875.

CHRONOLOGY OF CASE ACTIVITIES:

- 12-Aug-2018 The Compliance Officer conducted a site inspection at 12 Forest Road, Dartmouth, NS hereinafter referred to as “the property” (attached as Appendix B). The Officer noted there were no issues with the landscaping as it appeared to have been recently mowed. There was a vehicle on the property with an expired MVI, expired license plate, but no missing or damaged parts.
- 23-Aug-2018 The Compliance Officer conducted a site inspection at the property and found no change to the condition of the vehicle. A Notice of Violation (attached as Appendix C) was left at the property.
- 12-Sept-2018 The Compliance Officer spoke with the property owner; who advised they would not be removing the vehicle from the property as they did not believe it was in violation of the by-law.
- The Compliance Officer advised the property owner of the definition of derelict vehicle found in the HRM Charter and what was required to bring the property into compliance. The Compliance Officer advised an Order to Remedy would be posted on the property and advised of the appeal process.
- The Compliance Officer conducted a site inspection and noted no change to the condition of the vehicle.
- 13-Sept-2018 The Compliance Officer conducted a site inspection and noted no change to the condition of the vehicle. A 7-day Order to Remedy (attached as Appendix D) for a derelict vehicle was posted on the property. A copy was sent via Registered Mail.
- 18-Sept-2018 The property owner submitted a Notice of Appeal (attached as Appendix E) to the Municipal Clerk’s Office.
- 19-Sept-2018 The Compliance Officer spoke with the property owner who advised they had submitted a Notice of Appeal to the Municipal Clerk’s Office.
- 20-Sept-2018 The Municipal Clerk’s Office sent the property owner a letter (attached as Appendix F) advising the appeal would be heard at the October 11, 2018 Appeals Standing Committee meeting.
- 27-Sept-2018 The Compliance Officer conducted a site inspection and noted no change to the condition of the vehicle.

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 impact 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 Notice of Violation dated August 23, 2018
- Appendix D: Copy of the Order to Remedy dated September 13, 2018
- Appendix E: Copy of the Notice of Appeal dated September 18, 2018
- Appendix F: Copy of the letter from the Clerk's Office dated September 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: Jessica Côté, Compliance Officer II, By-law Standards, 902.483.3760

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:

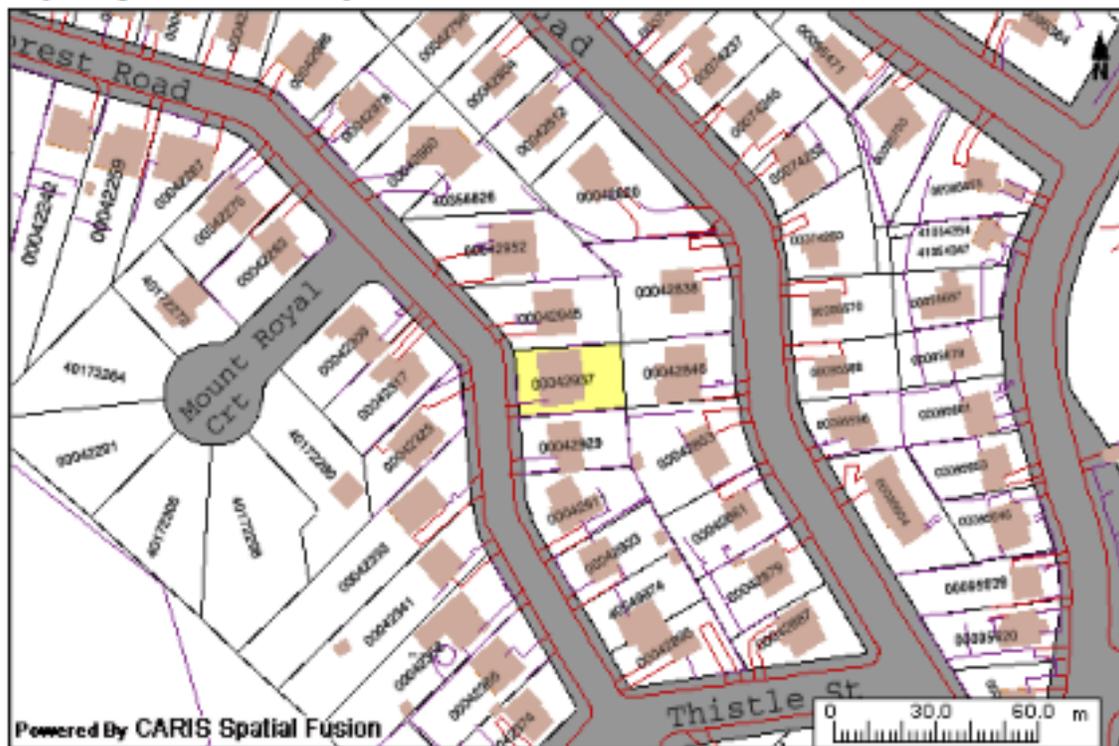
- 356 (2) An owner may appeal an order of the Administrator to the Council or to the committee to which the Council has delegated its authority within seven days after the order is made.
- (3A) Where the Council or the committee varies or overturns the order of the Administrator, the Council or committee 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: Sep 20, 2018 10:27:47 AM



PID:	00042937	Owner:	INEZ ARLINE DAYE	AAN:	01575791
County:	HALIFAX COUNTY	Address:	12 FOREST ROAD	Value:	\$296,600 (2018 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.

Property Online version 2.0

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HALIFAX

Municipal Compliance

Notice of Violation

Notice Served Upon: Name _____
or address 12 FOREST RD.

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

- | | |
|---|---|
| <input type="checkbox"/> HRM By-law A-700 Animals | <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 C-501 Vending | <input type="checkbox"/> HRM By-law S-801 Temporary Signs |
| <input checked="" type="checkbox"/> HRM Charter, Part XV Respecting Dangerous or Unsightly Premises | <input type="checkbox"/> HRM By-law S-1000 Sidewalk Cafes |
| <input type="checkbox"/> HRM By-law N-300 Nuisances | <input type="checkbox"/> HRM By-law T-1000 Taxi & Limousine |
| | <input type="checkbox"/> Other: _____ |

Details of violation(s):

Having a vehicle, vessel or item of equipment or machinery
() that appears to be disused or abandoned
by reason of its age, appearance or mechanical condition.

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

Repair or remove vehicle from public view - ok

Notice of Re-inspection:

A re-inspection will be performed on AUG 30TH, 2018 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.

Jessica Côté
Issuing Officer

23/08/18
Date (dd/mm/yy)

902 483 3760
Issuing Officer Phone Number

1450
Time (hh/mm)

ORIGINAL SIGNED
[Signature]
Issuing Officer

315 875
Case Number

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 12 FOREST RD, DARTMOUTH, NS,
[REDACTED] [REDACTED] [REDACTED] Case # 315875

Hereinafter referred to as the "Property"

TO: INEZ ARLINE DAYE
[REDACTED]

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

AND WHEREAS located on the Property is an unsightly or dangerous condition due to a blue Pontiac van deemed to be derelict due to the fact that it appears to be disused or abandoned by reason of its age, appearance, or mechanical condition or lack of valid license plates or current registration, 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 the vehicle from public view, 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 September, 2018 AD.

JESSICA COTE
COMPLIANCE OFFICER
Phone: (902)483-3760 x

ORIGINAL SIGNED

SCOTT HILL
Administrator
Halifax Regional Municipality

Sept 18, 2018

Appeals Standing Committee
H. R. M.

Municipal Clerk

City Hall

P.O. Box 1749

Halifax, N.S.

B3T 3A5

902-490-4208

Re Order to Remedy

12 Forest Road

Dartmouth, N.S.

[REDACTED]

Case # 315875

Dear Sir: Notice of Appeal

I wish to appeal the above
Order to Remedy on the above stated property.

Please note I received the registered
mail of this morning with case number
etc. However I would remind you that
on Sept 12th early PM I was made
aware of this complaint and called in
a verbal appeal to your office.

Since I was not aware of the case #
until today, I am making my Notice
of Appeal in writing.

Sincerely,

Ivan Klays
[REDACTED]

Appendix F

REGISTERED MAIL

September 20, 2018

Inez Arline Daye
[REDACTED]
[REDACTED]

CANADA POSTES POST CANADA		REGISTERED DOMESTIC CUSTOMER RECEIPT	RECOMMANDÉ RÉGIME INTÉRIEUR REÇU DU CLIENT	R
To Name	Destinataire Nom	FOR DELIVERY CONFIRMATION www.canadapost.ca		CONFIRMATION DE LA LIVRAISON www.postescanada.ca
Address	Adresse	or/ou		
City / Prov. / Postal Code	Ville / Prov. / Code postal	1 888 550-6333		
Declared Value Valeur déclarée	\$	CPC Tracking Number Numéro de repérage de la SCP	RN 313 781 913 CA	
33-986-584 (14-06)				

Re: Case 315875 Property located at 12 Forest Road, Dartmouth

This is to confirm that your appeal has been scheduled and will be heard by the Appeals Standing Committee on **Thursday, October 11, 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, October 4, 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 902-490-6517.

Sincerely,

ORIGINAL SIGNED

Phoebe Rai
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
Jessica Cote, 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