



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

Item No. 12.1.1
Appeals Standing Committee
January 17, 2019

TO: Chair and Members of Appeals Standing Committee

SUBMITTED BY: **ORIGINAL SIGNED**

Penny J. Henneberry, Manager, Buildings and Compliance

DATE: December 19, 2018

SUBJECT: **Appeal Report – Case 320871, 42 Old Sambro Road, Halifax**

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 three previous dangerous or unsightly cases at the property. All three cases were closed as owner compliance.

The property is zoned R-2P and a review of the Hansen database system shows there is one permit to renovate the structure that was issued to the property owner on March 16, 2017.

A complaint was received by service request on November 13, 2018. The complainant stated concerns with an excessive amount of garbage on the property. An additional service request was received on November 27, 2018.

This report will focus on the appeal dated December 10, 2018 by the property owner of the Order to Remedy for Case # 320871.

CHRONOLOGY OF CASE ACTIVITES:

- 17-Nov-2018 The Compliance Officer conducted a site inspection at 42 Old Sambro Road, Halifax hereinafter referred to as “the property” (attached as Appendix B). The Compliance Officer noted scattered debris on the front steps, barrels filled with solid waste and a large debris pile containing construction material, bottles, and scrap wood.
- A 5-day Notice of Violation (attached as Appendix C) was left at the property.
- The Compliance Officer left a voicemail for the property owner explaining the violation.
- 30-Nov-2018 The Compliance Officer conducted a site inspection and noted no change to the condition of the property.
- 06-Dec-2018 The Compliance Officer conducted a site inspection and noted no change to the condition of the property. A 7-day Order to Remedy (attached as Appendix D) was posted on the property. A copy was sent via Registered Mail.
- The Compliance Officer attempted to contact the property owner but there was no answer and the voicemail box was full.
- 10-Dec-2018 The property owner submitted a Notice of Appeal (attached as Appendix E) to the Municipal Clerk’s Office.
- 12-Dec-2018 The Municipal Clerk’s Office sent the property owner a letter advising the appeal would be heard at the January 17, 2019 Appeals Standing Committee meeting (attached as Appendix F).
- 13-Dec-2018 The Compliance Officer received a phone call from a friend of the property owner who advised that the property owner was currently in Mexico. The friend of the property owner provided the Compliance Officer with an email address for the property owner.

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 November 17, 2018
- Appendix D: Copy of the Order to Remedy dated December 6, 2018
- Appendix E: Copy of the Notice of Appeal dated December 10, 2018
- Appendix F: Copy of the letter from the Clerk’s Office dated December 12, 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: Kory O’Neill, Compliance Officer II, By-law Standards, 902.293.1406

ORIGINAL SIGNED

Report Approved By: _____
Tanya Phillips, Program Manager, By-law Standards 902.490.4491

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.

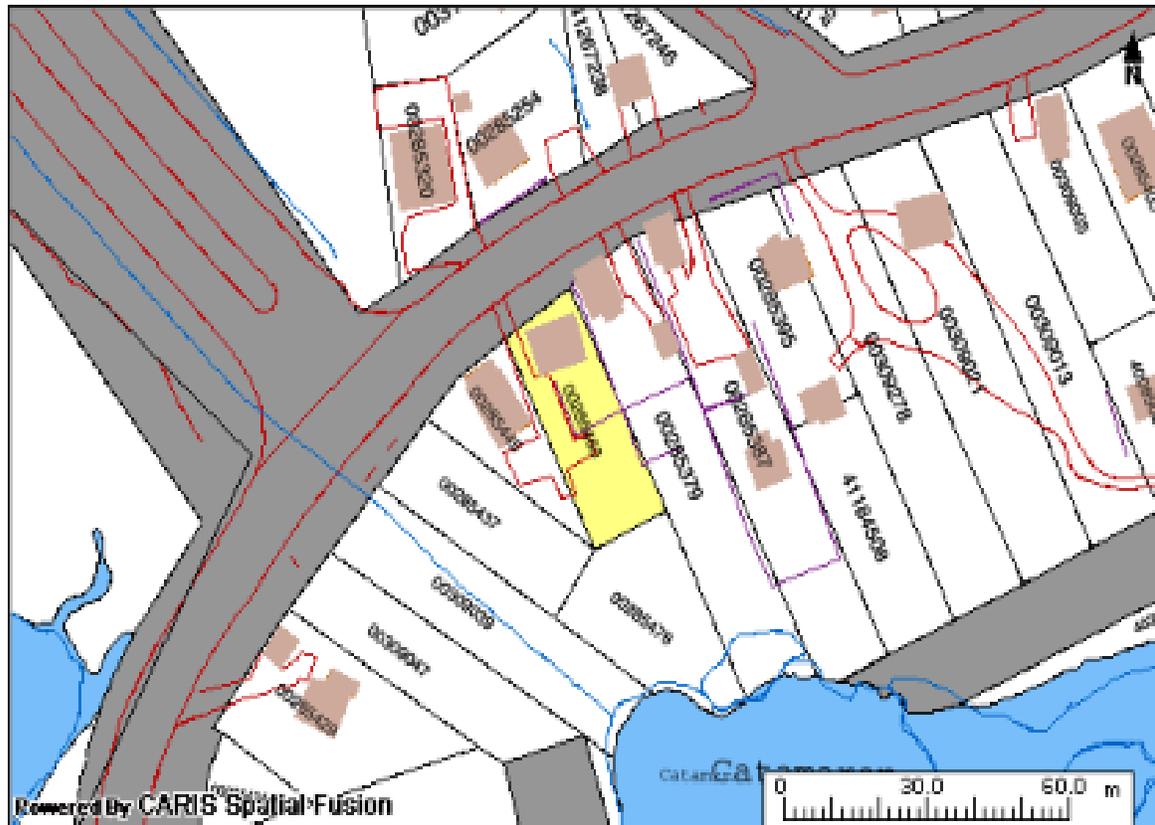
HRM Charter, subsection 3(q) as follows:

- (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: Dec 14, 2018 1:44:19 PM



PID: 00285460	Owner: JINBO CHEN	AAN: 02390469
County: HALIFAX COUNTY	Address: 42 OLD SAMBRO ROAD	Value: \$212,300 (2018 RESIDENTIAL TAXABLE)
LR Status: LAND REGISTRATION	HALIFAX	

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 42 Old Sambro 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 type="checkbox"/> HRM Charter, Part XV Respecting Dangerous or Unsanitary 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):

An accumulation of scattered debris including but not limited to plastics, cardboard, paper, paint cans, construction material, Sweep trays & other scattered debris

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

Remove above violating

Notice of Re-inspection:

A re-inspection will be performed on Nov 22/2018 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.

Kerry O'Neill
Issuing Officer

17/11/18
Date (dd/mm/yy)

902-253-1406
Issuing Officer Phone Number

1452
Time (hh/mm)

Original Signed
Issuing Officer Signature

[Signature]
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 42 OLD SAMBRO RD, HALIFAX, NS,
PID # 00285460 Tax # 2390469 Case # 320871
Hereinafter referred to as the "Property"

TO: JINBO CHEN
42 OLD SAMBRO RD, HALIFAX, NS, B3P 1Z5

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 scattered debris including but not limited to: plastic barrel and debris, bagged waste, scrap wood, inflatable pool, bottles and cans, paint cans, cardboard, window screen, metal downspout, carpet, vacuum and parts, discarded household items, scrap siding, door, demolition debris, dissembled metal shed frame and cover, shingles, broken child's bed, tarp, stool, clothing, bedding, buckets and bins, discarded toys, electrical cords, a tent and other scattered debris and litter, 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 scattered debris including but not limited to: plastic barrel and debris, bagged waste, scrap wood, inflatable pool, bottles and cans, paint cans, cardboard, window screen, metal downspout, carpet, vacuum and parts, discarded household items, scrap siding, door, demolition debris, dissembled metal shed frame and cover, shingles, broken child's bed, tarp, stool, clothing, bedding, buckets and bins, discarded toys, electrical cords, a tent and other scattered debris and litter, 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 6th of December, 2018 AD.

Original Signed

KORY O'NEILL
COMPLIANCE OFFICER
Phone: (902)293-1406 x

SCOTT HILL
Administrator
Halifax Regional Municipality

HALIFAX

HALIFAX REGIONAL
MUNICIPALITY

DEC 10 2018
Original Signed

MUNICIPAL CLERK

**NOTICE OF APPEAL
REGARDING
AN ORDER TO REMEDY DANGEROUS OR UNSIGHTLY PREMISES**

IN THE MATTER OF: Property located at 42 Old Sambro Road
 Case # 320871
 PID # _____
 Tax # _____

I Jinbo Chen wish to file this Written Notice of Appeal in relation to the Order I received dated the 10 day of December, 2018 from the Compliance Officer respecting the above noted Property.

The reason for appeal is:

The tendant just moved out and not yet pass me the key and complete the room check out yet. Also the basement is under constructions and will complete soon. I am not in Halifax now and will have to be back in two weeks to deal with this order.

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

DATED at Halifax, Nova Scotia this 10 day of December, 2018.

Jinbo Chen
 Legal Name of Appellant (please print)

Jinbo Chen
 Preferred Name

SEND TO:
Office of the Municipal Clerk
 P.O. Box 1749
 Halifax, NS B3J 3A5
 Fax: 902-490-4208
 Email: clerks@halifax.ca

Deliver in person: City Hall, 1841 Argyle Street, Halifax (Mon-Fri, 8:30am-4:30pm)

Original Signed

Signature of Appellant

 (Address) (Apt)

 (City) (Postal Code)

 Contact Number or Email

Appendix F

REGISTERED MAIL

December 12, 2018

Jinbo Chen



		REGISTERED DOMESTIC	RECOMMANDÉ RÉGIME INTÉRIEUR	R
		CUSTOMER RECEIPT	REÇU DU CLIENT	
To	Destinataire			
Name	Nom			
Address	Adresse			
City / Prov. / Postal Code	Ville / Prov. / Code postal			
Declared Value	Valeur déclarée			
	\$			
33-086-584 (14-06)		FOR DELIVERY CONFIRMATION / CONFIRMATION DE LA LIVRAISON		
		www.canadapost.ca or/ou www.postescanada.ca		
		1 888 550-6333		
		CPC Tracking Number / Numéro de repérage de la BCP		
		RN 313 781 842 CA		

Re: Case 320871, Property located at 42 Old Sambro Road, Halifax

This is to confirm that your appeal has been scheduled and will be heard by the Appeals Standing Committee on **Thursday, January 17, 2019**. 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, January 10, 2019. 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
Kory O'Neill, 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