



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

**Item No. 12.1.1**  
**Appeals Standing Committee**  
**September 12, 2019**

**TO:** Chair and Members of Appeals Standing Committee

**SUBMITTED BY:** ORIGINAL SIGNED  
Conor O’Dea, Manager, Buildings and Compliance

**DATE:** September 6, 2019

**SUBJECT:** Appeal Report – Case 322889, 236 Herring Cove 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 has been one previous dangerous or unsightly case at the property which was closed as owner compliance.

The property is zoned R-2P (General Residential) and a review of the Hansen database system shows there are no permits issued to the property owner.

A complaint was received by service request on April 26, 2018. The complainant stated the rock wall is falling apart and collapsing into the driveway.

The violation was originally being addressed under a case for the neighboring property until a review of Pictometry determined the rock wall was located on the property located at 236 Herring Cove Road.

This report will focus on the appeal dated June 4, 2019 by the property owner of the Order to Remedy for the deteriorating wall (case # 322889).

**CHRONOLOGY OF CASE ACTIVITIES:**

**2018**

- 29-Apr-2018 The Compliance Officer conducted a site inspection and noted the rock wall was caving in and falling down in sections.
- 01-Jun-2018 The Compliance Officer conducted a site inspection and noted no change to the condition of the property.
- 04-Jul-2018 The Compliance Officer conducted a site inspection and noted no change to the condition of the property.
- 09-Sep-2018 The Compliance Officer conducted a site inspection and noted no change to the condition of the property.

**2019**

- 16-Jan-2019 The Compliance Officer left a voicemail for the property owner advising of the violation and requested a call back.  
  
The Compliance Officer conducted a site inspection at 236 Herring Cove Road, Halifax hereinafter referred to as “the property” (attached as Appendix B).
- 04-Mar-2019 The Compliance Officer contacted the property owner and advised of the violation and what was required to bring the property into compliance. The property owner requested time to conduct some research as to whether they are responsible for the rock wall as it was not disclosed to them when they purchased the property.
- 13-May-2019 The Compliance Officer conducted a site inspection and noted no change to the condition of the property. The Compliance Officer left a voicemail for the property owner and requested a call back.
- 27-May-2019 The Compliance Officer conducted a site inspection and noted no change to the condition of the property.  
  
The Compliance Officer left a voicemail for the property owner and requested a call back.
- 28-May-2019 The Compliance Officer received a voicemail from the property owner.

- 30-May-2019 The Compliance Officer attempted to reach the property owner however, the mailbox was full and they were unable to leave a voicemail.
- The Compliance Officer conducted a site inspection and noted no change to the condition of the property. A 120-day Order to Remedy (attached as Appendix C) was posted on the property. A copy was also sent to the property owner via registered mail.
- The Compliance Officer received a phone call from the property owner. The property owner advised of the research they had conducted and that they would be appealing the Order.
- 04-Jun-2019 The property owner submitted a Notice of Appeal (attached as Appendix D) to the Municipal Clerk's Office.
- 06-Jun-2019 The Compliance Officer received a text message from the property owner advising that they appealed the Order.
- 21-Jun-2019 The Compliance Officer sent a text message to the property owner advising the information for the appeal was received.
- 11-Jul-2019 The Compliance Officer received a request from the property owner for information regarding the neighboring properties. The Compliance Officer tried to contact the owner and left a voicemail directing them to the Access and Privacy department.
- 25-Jul-2019 The Municipal Clerk's Office sent the property owner a letter advising the appeal would be heard at the September 12, 2019 Appeals Standing Committee meeting (attached as Appendix E).

### **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 impacts 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 dated May 30, 2019
  - Appendix D: Copy of the Notice of Appeal dated June 4, 2019
  - Appendix E: Copy of the letter from the Clerk's Office dated July 25, 2019
- 

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: Jonathan Wells, Compliance Officer II, By-law Standards, 902.219.4798

Report Approved By: **ORIGINAL SIGNED**  
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:

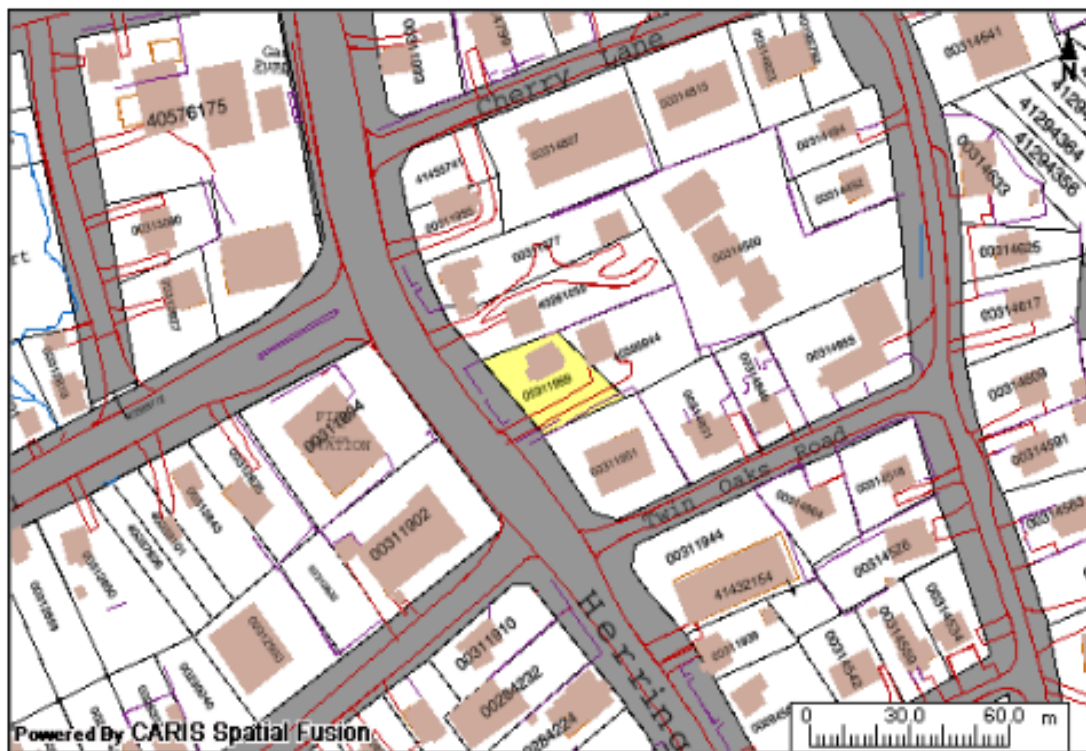
- 356 (2) An owner may appeal an order of the Administrator to the Council or to the committee to which the Council has delegated its authority within seven days after the order is made.
- (3A) Where the Council or the committee varies or overturns the order of the Administrator, the Council or committee 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: Aug 27, 2019 3:51:52 PM



<b>PID:</b> 00311969	<b>Owner:</b> TINA MARIE MORASH	<b>AAN:</b> 02101734
<b>County:</b> HALIFAX COUNTY	<b>Address:</b> 236 HERRING COVE ROAD	<b>Value:</b> \$189,200 (2019 RESIDENTIAL TAXABLE)
<b>LR Status:</b> LAND REGISTRATION	<b>HALIFAX</b>	

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**

This page and all contents are copyright © 1999-2003, [Government of Nova Scotia](http://www.gov.nova Scotia.ca), all rights reserved.

# 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 236 HERRING COVE RD, HALIFAX, NS,  
PID # 00311969 Tax # 2101734 Case # 322889  
Hereinafter referred to as the "Property"

**TO:** TINA MARIE MORASH  
236 HERRING COVE RD, HALIFAX, NS, B3P 1L4

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

**AND WHEREAS** located on the Property is an unsightly or dangerous condition due to a retaining wall that has deteriorating or missing components and leaning into the adjoining property, 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 the retaining wall, 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 one hundred and twenty (120) 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 30th of May, 2019 AD.

**Original Signed**

JONATHAN WELLS  
COMPLIANCE OFFICER  
Phone: (902)219-4798 x

ERIN DOBSON  
Administrator  
Halifax Regional Municipality

## Appendix D

**Stewart, April**

---

**From:** Office, Clerks  
**To:** Ross-Siegel, Simon  
**Subject:** RE: [External Email] Notice of Appeal - Dated June 3, 2019- Case # 322889



**From:** Ross-Siegel, Simon  
**Sent:** June-04-19 9:38 AM  
**To:** Office, Clerks <clerks@halifax.ca>  
**Subject:** FW: [External Email] Notice of Appeal - Dated June 3, 2019- Case # 322889

**From:** Tina Morash <[REDACTED]>  
**Sent:** June-04-19 9:36 AM  
**To:** Ross-Siegel, Simon <rosssis@halifax.ca>  
**Subject:** [External Email] Notice of Appeal - Dated June 3, 2019- Case # 322889

*[This email has been received from an external person or system]*

Dear Simon,

My Name is: TINA [REDACTED] MORASH , I wish to appeal Section 356 of the Halifax Regional Municipal Charter, S.N.S., 2008, C.39 Hereinafter to as the "Charter" on June 3, 2019.

- and -

IN THE MATTER OF ; Property located at 236 HERRING COVE RD, HALIFAX, NS, CASE # 322889.

I would also like to have a conversation with you to gain more insight on this matter. I can be reached at [REDACTED] Thanks.

Regards,

Tina Morash




## Appendix E

July 25, 2019

### REGISTERED MAIL

Tina Marie Morash  
236 Herring Cove Road  
Halifax, NS  
B3P 1L4

CANADA POST / POSTES CANADA		<b>REGISTERED DOMESTIC</b> CUSTOMER RECEIPT	<b>RECOMMANDÉ RÉGIME INTÉRIEUR</b> REÇU DU CLIENT	
TO / Destinataire		FOR DELIVERY CONFIRMATION / CONFIRMATION DE LA LIVRAISON		
Name / Nom		canadapost.ca	or / ou	postescanada.ca
Address / Adresse		1 888 550-6333		
City / Prov. / Postal Code / Ville / Prov. / Code postal		CPC Tracking Number / Numéro de repérage de la SCP		
Declared Value / Valeur déclarée \$		<b>RN 389 561 665 CA</b>		
33-086-584 (17-12)				

**Re: RESCHEDULED – Case # 322889 – 236 Herring Cove Road, Halifax NS**

This is to advise that, pursuant to your request sent by email on July 24<sup>th</sup>, 2019, your appeal of the Order to Remedy Dangerous and Unightly Premises for the property located at 236 Herring Cove Road has been rescheduled. Your appeal will now be heard by the Appeals Standing Committee on **September 12<sup>th</sup>, 2019**. The hearing will be held in the Council Chamber, 3<sup>rd</sup> Floor, City Hall, 1841 Argyle Street, Halifax, in a public session, open to the public and media. 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 matter will be posted online to the Appeals Standing Committee web page at Halifax.ca by end of day Friday, September 6<sup>th</sup>, 2019. (<https://www.halifax.ca/city-hall/agendas-meetings-reports?category=131>) 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 902-490-6519.

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  
Karen MacDonald, Senior Solicitor, HRM Legal Services  
Jonathan Wells, 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