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Item No. 1
Appeals Standing Committee
September 12, 2019

TO: Chair and Members of the Appeals Standing Committee

SUBMITTED BY:

ORIGINAL SIGNED

Conor O'Dea, Manager, Buildings and Compliance

DATE: August 29, 2019

SUBJECT: Case #305184 – 209 Scott's Point Road, East Dover

INFORMATION REPORT

ORIGIN

On October 11, 2018, the Appeals Standing Committee approved a motion ordering demolition of the fish shed structure at 209 Scott's Point Road, East Dover.

LEGISLATIVE AUTHORITY

Sections 355, 356 and 3(q) of the *Halifax Regional Municipality Charter*, SNS 2008 c.39.

BACKGROUND

A fish shed is attached to the shoreline of the property at 209 Scott's Point Road, East Dover. As the structure is connected to the shore of private property within HRM, it falls within Municipal boundaries in accordance with section 355 of the *Municipal Government Act*.

A complaint was received about the fish shed in January, 2018. Following an inspection, HRM staff sought a demolition order for the structure. The matter came before the Appeals Standing Committee on April 12, 2018 and was deferred to August 2, 2018, to give the owner time to bring the structure into compliance.

At the August 2, 2018 meeting, the Appeals Standing Committee deferred the matter for one month, to permit the owner to consult with an engineer. The matter returned to the Appeals Standing Committee on September 13, 2018. The owner presented a permit from the Department of Lands and Forestry which permitted the owner to place cribbing underneath the structure. The matter was deferred for one month, to allow staff to consider what impact, if any, the permit had

on HRM's jurisdiction. The matter returned to the Appeals Standing Committee on October 11, 2018, at which time a motion to demolish the structure was put and passed and a demolition order was signed on that date.

Prior to staff being able to enforce the demolition order, staff received correspondence on November 2, 2018 from the Department of Lands & Forestry. The Province advised that after completing a review of their records it was determined that the 80 plus year old fish shed structure was located below the Ordinary High-Water Mark, and thus rested on submerged Provincial Crown land. Further, approval in the form of a permit from the Minister of Lands & Forestry was required for any removal/demolition work on a structure resting on Crown land. HRM was also told that there was a pending arrangement between Lands and Forestry and the owner permitting the owner to commence restoration work.

Staff responded on November 21, 2018, requesting clarification on: 1) the applicable provisions of the *Crown Lands Act*, and 2) the Province's position on HRM's jurisdiction to issue an Order under the Dangerous & Unightly provisions of the *HRM Charter* for the fish shed.

In correspondence dated March 8, 2019, HRM was advised that pursuant to the *Crown Lands Act*, the Department of Lands and Forestry has administration and control of all Provincial Crown land. Further, if the removal of the structure or any restoration work to the structure caused anything to be deposited on Crown land, approvals would be required by HRM or its sub-contractors before any work was undertaken. With respect to the fish shed, a permit would be issued by the Province to the owner to permit the owner to do the work needed to bring the structure into compliance with HRM's requirements, and to authorize the structure to continue to partially exist on Crown land.

As staff had not received a clear response, on April 11, 2019 staff wrote to the Province seeking further clarification on the Province's position with respect to HRM's jurisdiction to demolish the fish shed. Staff further sought clarification on whether a permit would be required by HRM from the Province for the demolition.

The Province responded on June 19, 2019. The Province agreed that HRM had the authority to issue a demolition order, but HRM may require permission from the Crown to enter upon and carry out the demolition work, as the structure rested on Crown land. HRM was advised that it should contact the Crown to ascertain whether permission from the Crown was required.

The Province provided a copy of a permit that had been issued to the property owner, dated June 5, 2019. The permit allows the owner to carry out the work necessary to restore the structure to a form that is compliant with the *HRM Charter* and Building Code. The owner is responsible to obtain all permits, authorizations or permissions required from the appropriate Federal, Provincial or Municipal authorities. As of August 26, 2019 the owner has not applied for any permits from HRM to undertake any work on the fish shed structure, nor has the owner provided HRM with a report from a structural engineer. The permit expires on December 31, 2019.

DISCUSSION

The owner has not taken any steps to apply for the necessary permits from HRM to undertake work on the fish shed, nor has the owner provided staff with an engineer's report setting out what would be required to bring the structure into compliance with the *HRM Charter* and Building Code. Staff would like to proceed with the demolition of the fish shed. As staff understands that HRM may require a permit from the Province to carry out the demolition, staff reached out to the

Department of Lands and Forestry on August 27, 2019 for information on what will be required from HRM in applying for the permit. Staff is waiting to hear back.

FINANCIAL IMPLICATIONS

There are no financial implications.

COMMUNITY ENGAGEMENT

N/A

ATTACHMENTS

Nil

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.

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