

HALIFAX

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

Item No. 12.1.2
Appeals Standing Committee
December 12, 2019

TO: Chair and Members of Appeals Standing Committee

Original Signed

SUBMITTED BY: _____
Tanya Phillips, Acting Manager, Buildings and Compliance

DATE: November 15, 2019

SUBJECT: Appeal Report – Case 327529/330851, 65 Tillock Drive, Lower Sackville

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

The property is zoned R-2 (Two Unit Dwelling Zone) and a review of the Hansen database system shows there were no permits issued to the property owner.

A complaint was received by service request on April 24, 2019. The complainant stated there was 5-6 derelict vehicles and garbage scattered everywhere on the property.

This report will focus on the appeal dated September 12, 2019 by the property owner of the Order to Remedy debris for case#327529 and derelict vehicle for case#330851.

CHRONOLOGY OF CASE ACTIVITES:

03-May-2019 The Compliance Officer conducted a site inspection at 65 Tillock Drive, Lower Sackville, hereinafter referred to as "the property" (attached as Appendix B). The Compliance Officer noted three derelict vehicles on the property, a black Kia unknown model that appeared to be used for storage, a black Honda Civic with an expired MVI and a silver Honda Civic with front end damage. Case#330851 was created to address the derelict vehicles. The Compliance Officer also noted debris including car parts, bagged solid waste, fence panels, ramps, rope, cardboard, shingles, futon mattress, jerry cans, sports equipment, tarps, carpet, pipes, lumber and other items.

A 14-day Notice of Violation (attached as Appendix C) for debris was posted to the property.

13-May-2019 The Compliance Officer left a voicemail for the property owner requesting a call back.

19-Jun-2019 The Compliance Officer conducted an inspection with the property owner and noted the violations remain. The Compliance Officer walked the property with the property owner and advised what was required to bring the property into compliance. The Kia was the remaining derelict vehicle on the property.

28-Aug-2019 The Compliance Officer conducted a site inspection and noted the violations remain. The Compliance Officer spoke to the female property owner on site about the violations.

05-Sep-2019 The Compliance Officer conducted a site inspection and noted the violations remain. A 14-day Order to Remedy (attached as Appendix D) for debris was posted on the property. A 7-day Order to Remedy (attached as Appendix E) for derelict vehicle was posted on the property. The Compliance Officer spoke to the female property owner and explained the violations and remedy process.

A relative of the property owner called and made suggestions as to what they would do to bring the property into compliance. The Compliance Officer advised what was required and the appeal process should the property owner wish to appeal.

12-Sep-2019 The property owner submitted a Notice of Appeal (attached as Appendix F) to the Municipal Clerk's Office.

13-Sep-2019 The Municipal Clerk's Office sent the property owner a letter advising the appeal would be heard at the December 12, 2019 Appeals Standing Committee meeting (attached as Appendix G).

20-Nov-2019 The Compliance Officer conducted a site inspection and noted the violations remain.

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 May 3, 2019
- Appendix D: Copy of the Order to Remedy Case#327529 (debris) dated September 5, 2019
- Appendix E: Copy of the Order to Remedy Case# 330851 (derelict) dated September 5, 2019
- Appendix F: Copy of the Notice of Appeal dated September 12, 2019
- Appendix G: Copy of the letter from the Clerk's Office dated September 13, 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: Valerie Rodger Compliance Officer II, By-law Standards, 902.476.1708

Report Approved By:  Original Signed
Andrea MacDonald, Manager, License Standards 902.490.7371

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.

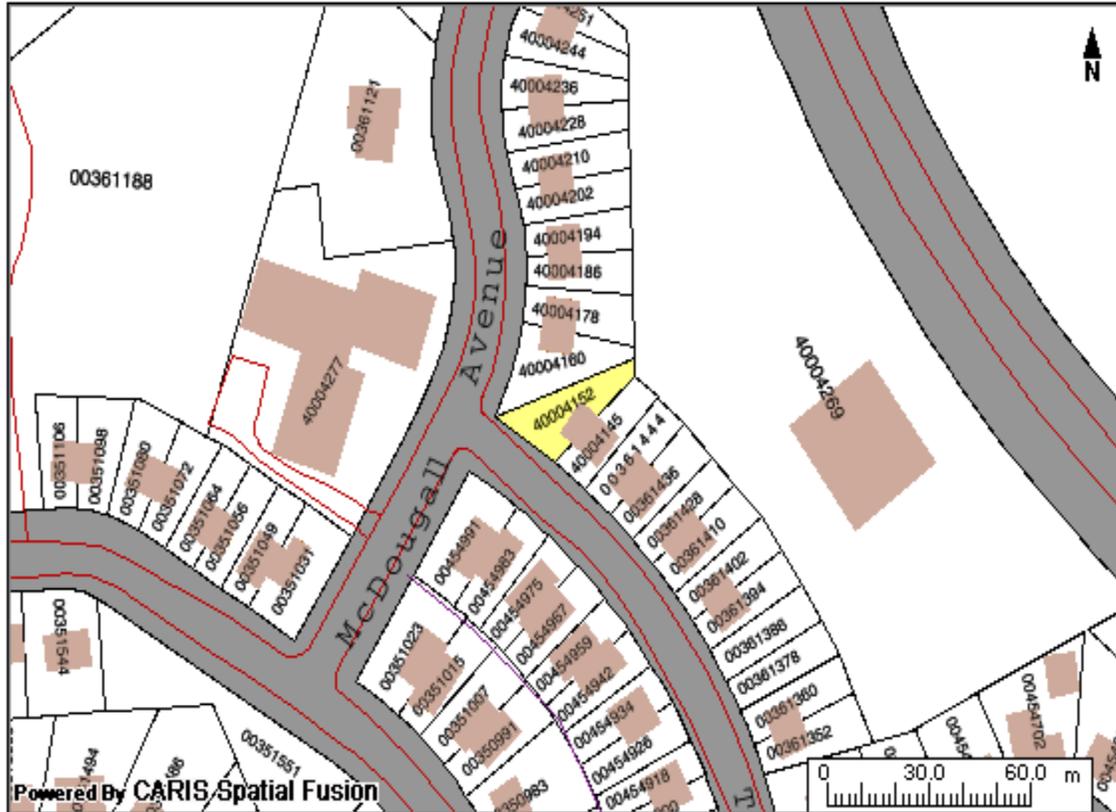
HRM Charter, subsection 3(q) as follows:

- (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: Nov 19, 2019 4:17:19 PM



PID:	40004152	Owner:	DONALD ROBERT BROWN	AAN:	03556565
County:	HALIFAX COUNTY		IVY ELIZABETH BROWN	Value:	\$149,500 (2019 RESIDENTIAL TAXABLE)
LR Status:	LAND REGISTRATION	Address:	65 TILLOCK DRIVE LOWER SACKVILLE		

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.ns.ca), all rights reserved.

HALIFAX

Municipal Compliance

Notice of Violation

Notice Served Upon: Name _____
or address 65 Tillicum Dr.

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

- | | |
|---|---|
| <input type="checkbox"/> HRM By-law A-300 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):

Accumulation of waste & debris including de-lict vehicles, car parts, blocked solid waste fence panels, ramps, rope, cardboard, skillets, fireman mattress, jerry cans, spark equipment, tarping, carpet, pipes, lumber & other items

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

all waste & debris to be removed, including de-lict vehicles

Notice of Re-inspection:

A re-inspection will be performed on 2019 May 17 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.

Valerie Rodger
Issuing Officer

476-1708
Issuing Officer Phone Number

Original Signed
Issuing Officer Signature

03 May 2019
Date (dd/mm/yy)

10.01.
Time (hh/mm)

30529 (30851-vehicle)
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 65 TILLOCK DR, LOWER SACKVILLE, NS,
PID # 40004152 Tax # 3556565 Case # 327529
Hereinafter referred to as the "Property"

TO: DONALD ROBERT BROWN & IVY ELIZABETH BROWN
65 TILLOCK DR, LOWER SACKVILLE, NS, B4C 1K8

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, scrap wood, insulation, recyclables, tires, old discarded auto parts, cardboard, bagged recyclables, rope, milkcrates, jugs, buckets, old outdoor chiminea, pvc piping, old shingles, bagged waste, cut wood and brush, truck cap, chairs, rubber mats, carpet mats, discarded car seats and other scattered litter and 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, scrap wood, insulation, recyclables, tires, old discarded auto parts, cardboard, bagged recyclables, rope, milkcrates, jugs, buckets, old outdoor chiminea, pvc piping, old shingles, bagged waste, cut wood and brush, truck cap, chairs, rubber mats, carpet mats discarded car seats and other scattered litter and 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 fourteen (14) 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 5th of September, 2019 AD.

Original Signed

VALERIE RODGER
COMPLIANCE OFFICER
Phone: 902-476-1708 x


SCOTT HILL
Administrator
Halifax Regional Municipality

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 65 TILLOCK DR, LOWER SACKVILLE, NS,
PID # 40004152 Tax # 3556565 Case # 330851
Hereinafter referred to as the "Property"

TO: DONALD ROBERT BROWN
65 TILLOCK DR, LOWER SACKVILLE, NS, B4C 1K8
IVY ELIZABETH BROWN
65 TILLOCK DR, LOWER SACKVILLE, NS, B4C 1K8

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

AND WHEREAS located on the Property is an unsightly or dangerous condition due to a black Kia, VIN KNAFG526177107769, has been deemed to be derelict as it appears to be disused or abandoned by reason of its age, appearance, mechanical condition or lack of license plate or current vehicle 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 black Kia, 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 5th of September, 2019 AD.

VALERIE RODGER
COMPLIANCE OFFICER
Phone: 902-476-1708 x

Original Signed

SCOTT HILL
Administrator
Halifax Regional Municipality

Appendix F

I How Brown wish to appeal
the case # 330851 and 327529 and have
my case heard by the council.

Original Signed



Fax # 902-490-4204

HALIFAX REGIONAL
MUNICIPALITY
SEP 12 2019
Original Signed
MUNICIPAL CLERK

Appendix G

September 13, 2019

REGISTERED MAIL

Donald Robert and Ivy Elizabeth Brown
65 Tillock Drive
Lower Sackville, NS B4C 1K8

		REGISTERED DOMESTIC	RECOMMANDÉ RÉGIME INTÉRIEUR	
		CUSTOMER RECEIPT	REÇU DU CLIENT	
No	Destinataire			
Name	Nom			
Address	Adresse			
City / Prov. / Postal Code	Ville / Prov. / Code postal			
Declared Value / Valeur déclarée \$				
33-086-584 (17-12)				
		FOR DELIVERY CONFIRMATION	CONFIRMATION DE LA LIVRAISON	
		canadapost.ca	postescanada.ca	
		1 888 550-6333		
		CPC Tracking Number / Numéro de suivi de la BCP RN 389 561 736 CA		

Re: Cases 330851 & 327529 – 65 Tillock Drive, Lower Sackville, NS

This is to advise that your appeal of the Order to Remedy Dangerous and Unightly Premises for the property located at 65 Tillock Drive will be heard by the Appeals Standing Committee on **November 14th, 2019**. The hearing will be held in the Council Chamber, 3rd 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, November 8th, 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
Valerie Rodger, 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