

HALIFAX

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

Item No. 12.1.4
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: December 5, 2019

SUBJECT: Appeal Report – Case 335241, 202 Rankin Drive, Lower Sackville

ORIGIN

Appeal of an Order to Remedy the condition of a property pursuant to the Dangerous or Unightly 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 six 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 is one permit for an above ground pool issued to the property owner.

A complaint was received by service request on September 1, 2019. The complainant stated there was tall grass and that the backyard looked like a junk yard.

This report will focus on the appeal dated November 13, 2019 by the property owner of the Order to Remedy debris for case#335241.

CHRONOLOGY OF CASE ACTIVITIES:

04-Sep-2019 The Compliance Officer conducted a site inspection at 202 Rankin Drive, Lower Sackville, hereinafter referred to as “the property” (attached as Appendix B). The Compliance Officer noted a broken barbeque and scattered debris in the backyard. The grass was dealt with under a separate case.

A 7-day Notice of Violation (attached as Appendix C) for debris was provided to the property owner.

11-Sep-2019 The Compliance Officer conducted a site inspection and noted the violation remains. The Compliance Officer granted a 1 week extension due to post hurricane Dorian situation.

18-Sep-2019 The Compliance Officer conducted a site inspection and noted the violation remains.

30-Sep-2019 The Compliance Officer conducted a site inspection and noted the violation remains. The Compliance Officer was unable to access the backyard as the gate was locked.

02-Oct-2019 The Compliance Officer conducted a site inspection and noted the violation remains.

07-Nov-2019 The Compliance Officer conducted a site inspection and noted the violation remains.

A 7-day Order to Remedy (attached as Appendix D) for debris violations was posted at the property.

13-Nov-2019 The property owner submitted a Notice of Appeal (attached as Appendix E) to the Municipal Clerk’s Office.

20-Nov-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 F).

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 September 4, 2019
- Appendix D: Copy of the Order to Remedy dated November 7, 2019
- Appendix E: Copy of the Notice of Appeal dated November 13, 2019
- Appendix F: Copy of the letter from the Clerk's Office dated November 20, 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
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.

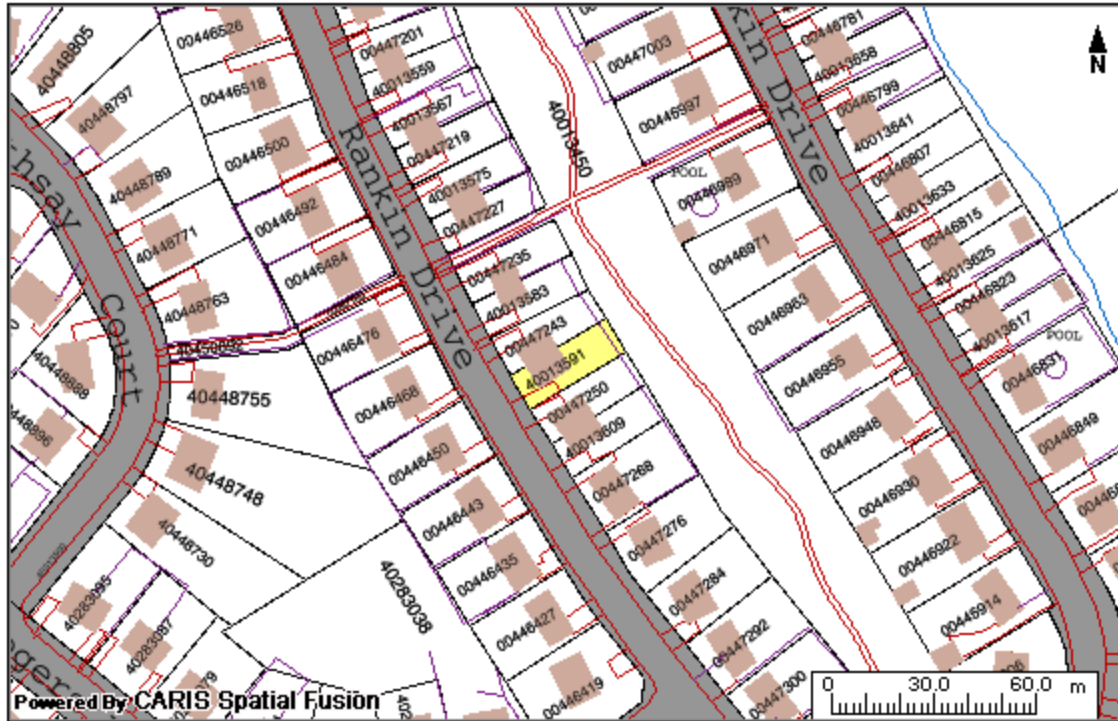
HRM Charter, subsection 3(q) as follows:

- (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 22, 2019 10:48:55 AM



PID:	40013591	Owner:	THOMAS ALAN MULLENIX	AAN:	03136655
County:	HALIFAX COUNTY		LYNETTE ELAINE MULLENIX	Value:	\$144,900 (2019 RESIDENTIAL TAXABLE)
LR Status:	LAND REGISTRATION	Address:	202 RANKIN 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

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HALIFAX

Municipal Compliance

Notice of Violation

Notice Served Upon: Name _____
or address 202 Rankin Dr., Lower Sackville

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):

Due to an accumulation of debris including but not limited to old barbecue and other loose and scattered debris.

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

Please remove or store above listed items.

Notice of Re-inspection:

A re-inspection will be performed on Sept. 11, 2019 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.

Jonathan Wells
Issuing Officer

902-219-4798
Issuing Officer Phone Number

Original Signed
Issuing Officer Signature

04/09/19
Date (dd/mm/yy)

17/29
Time (hh/mm)

TBD 375241
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 202 RANKIN DR, LOWER SACKVILLE, NS,
PID # [REDACTED] Tax # [REDACTED] Case # 335241
Hereinafter referred to as the "Property"

TO: THOMAS ALAN MULLENIX
202 RANKIN DR, SACKVILLE, NS, B4C 3B3
LYNETTE ELAINE MULLENIX
202 RANKIN DR, SACKVILLE, NS, B4C 3B3

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 an old barbeque and other loose and scattered 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 an old barbeque and other loose and scattered 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 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 7th of November, 2019 AD. **Original Signed**

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


SCOTT HILL
Administrator
Halifax Regional Municipality



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

IN THE MATTER OF: Property located at 202 Rankin Drive, Lower Sackville, NS.
Case # 335241
PID # _____
Tax # _____

I Thomas Mullenix wish to file this Written Notice of Appeal in relation to the Order I received dated the 7, day of November, 2019 from the Compliance Officer respecting the above noted Property.

The reason for appeal is: the order was given without due provocation or just cause. The order also was given casually and is inconclusive, there is nothing dangerous about my property. I have raised two children and have two dogs whom are all still alive and very healthy and have used and played in this yard for years. Perhaps you may have mistaken my property for the green belt which is owned by the City of Halifax which runs along my property line which is very unsightly and dangerous.

*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 Lower Sackville, Nova Scotia this 13_ day of November, 2019 .

Thomas Mullenix Legal Name of Appellant

Signature of Appellant **Original Signed**

Thomas
Preferred Name

202 Rankin Drive
(Address) (Apt)

SEND TO:

Office of the Municipal Clerk P.O.

Box 1749

Halifax, NS B3J 3A5

Fax:

902-490-4208

Email: clerks@halifax.ca

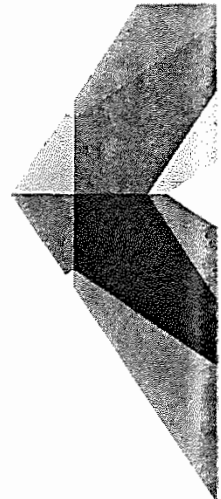
Deliver in person: City Hall, 1841 Argyle
Street, Halifax (Mon-Fri, 8:30am-4:30pm)

(City)

(Postal Code)


Contact Number or Email


Appendix F



November 20, 2019

REGISTERED MAIL

Thomas and Lynette Mullenix
202 Rankin Drive
Sackville, NS B4C 3B3

		REGISTERED DOMESTIC	RECOMMANDÉ RÉGIME INTÉRIEUR	R
		CUSTOMER RECEIPT	REÇU DU CLIENT	
No	Destinataire			
Name	Nom			
Address	Adresse			
City / Prov. / Postal Code	Ville / Prov. / Code postal			
Declared Value \$				
33-086-584 (17-12)				
		FOR DELIVERY CONFIRMATION	CONFIRMATION DE LA LIVRAISON	
		canadapost.ca	postescanada.ca	
		1 888 550-6333		
		CPC Tracking Number	RN 389 562 008 CA	
		Numéro de suivi de la BCP		

Re: Case 335241 – 202 Rankin Drive, Sackville, NS

This is to advise that your appeal will be heard by the Appeals Committee on **Thursday, December 12, 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 matter will be posted online to the Appeals Standing Committee web page at Halifax.ca by end of day Friday, December 6, 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.

If filing an appeal, be advised that your submission and appeal documents will form part of the public record, and will be posted on-line at www.halifax.ca. If you feel that information you consider to be personal is necessary for your appeal, please attach that as a separate document, clearly marked "PERSONAL". It will be provided to the committee and/or council members and staff, and will form part of the public record, but it will not be posted on-line. You will be contacted if there are any concerns.

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