



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

Item No. 8.1
Appeals Standing Committee
March 12, 2020

TO: Chair and Members of Appeals Standing Committee

Original Signed

SUBMITTED BY: _____
Conor O’Dea, Manager, Buildings and Compliance

DATE: February 26, 2020

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. A Compliance Officer attended the property and noted the wall may be located on the abutting property. It was determined to review the file further to determine ownership and follow up with the appropriate property owner.

The Compliance Officer reviewed Pictometry and the information gathered through site inspections and determined that the rock wall was 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:

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 thereafter 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 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).
- 10-Sept-2019 The Compliance Officer conducted a site inspection and noted no change to the condition of the property. The Compliance Officer knocked on the door intending to hand deliver a copy of the report for the Appeals Standing Committee to the property owner but received no answer. The Officer left the package at the door.
- 11-Sept-2019 The Compliance Officer received a phone call from the property owner requesting their appeal be moved to the November meeting. The Compliance Officer advised the property owner they would advise the Clerk's Office of the request to reschedule.
- 1-Nov-2019 The Compliance Officer sent a text to the property owner advising that their appeal would be heard at the December 12, 2019 meeting.
- 19-Nov-2019 The Compliance Officer conducted a site inspection and noted no change to the condition of the property.
- 19-Nov-2019 The Compliance Officer received a text from the property owner requesting that their appeal be moved to the new year.

The Compliance Officer sent a text to the property owner advising that they were not in the office and would look into rescheduling the appeal upon their return.
- 21-Nov-2019 The Compliance Officer sent a text to the property owner advising that their appeal will be put over to the new year and they would contact them with the meeting date.
- 09-Jan-2020 The Municipal Clerk's Office sent the property owner a letter advising the appeal would be heard at the February 13, 2020 Appeals Standing Committee meeting (attached as Appendix F).
- 23-Jan-2020 The Compliance Officer spoke with the property owner by phone and confirmed their appeal will not be heard in February.
- 28-Jan-2020 The Compliance Officer conducted a site inspection and noted no change to the condition of the property.
- 5-Feb-2020 The Municipal Clerk's Office sent the property owner a letter advising the appeal would be heard at the March 12, 2020 Appeals Standing Committee meeting (attached as Appendix G).

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
- Appendix F: Copy of the letter from the Clerk's Office dated January 9, 2020
- Appendix G: Copy of the letter from the Clerk's Office dated February 5, 2020

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

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.

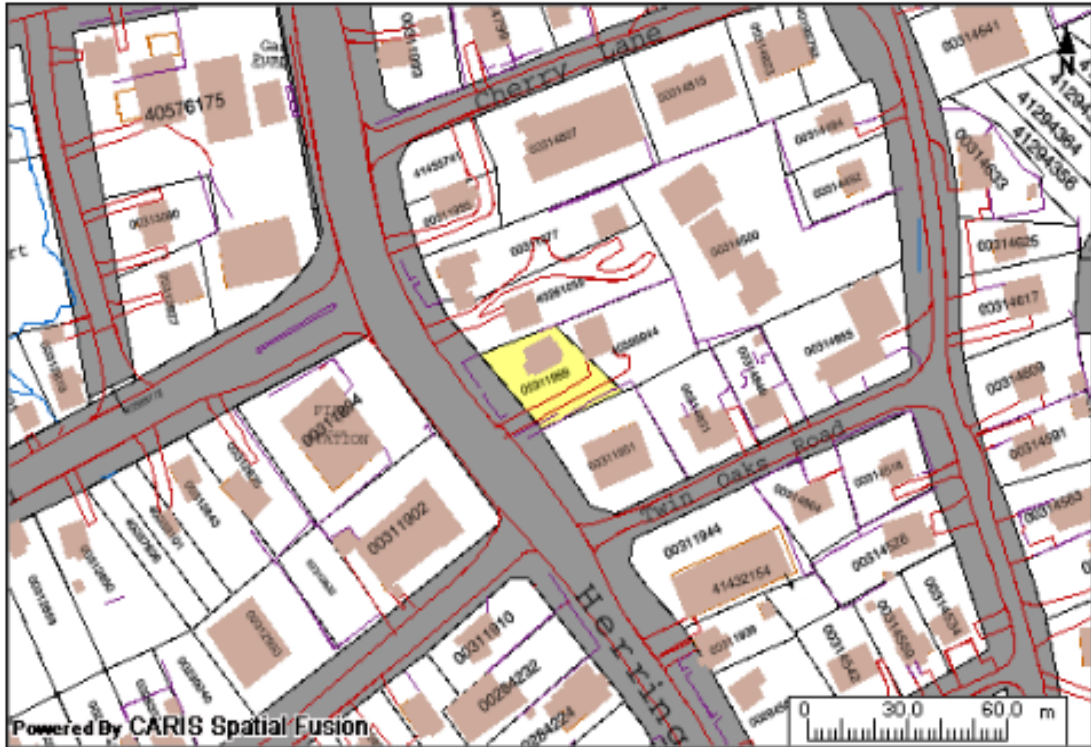
HRM Charter, subsection 3(q) as follows:

- (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: Aug 27, 2019 3:51:52 PM



PID:	00311969	Owner:	TINA MARIE MORASH	AAN:	02101734
County:	HALIFAX COUNTY	Address:	236 HERRING COVE ROAD	Value:	\$189,200 (2019 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

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,
[REDACTED] Case # 322889
Hereinafter referred to as the "Property"

TO: TINA MARIE MORASH
[REDACTED] 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



		REGISTERED DOMESTIC	RECOMMANDÉ RÉGIME INTÉRIEUR	
		CUSTOMER RECEIPT	REÇU DU CLIENT	
To	Destinataire			
Name	Nom			
Address	Adresse			
City / Prov. / Postal Code	Ville / Prov. / Code postal			
Declared Value \$		CPC Tracking Number / Numéro de repérage de la SCP		
33-086-584 (17-12)		RN 389 561 665 CA		

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

This is to advise that, pursuant to your request sent by email on July 24th, 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 12th, 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, September 6th, 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

Appendix F



**REGISTERED
DOMESTIC**
CUSTOMER RECEIPT

**RECOMMANDÉ
RÉGIME INTÉRIEUR**
REÇU DU CLIENT



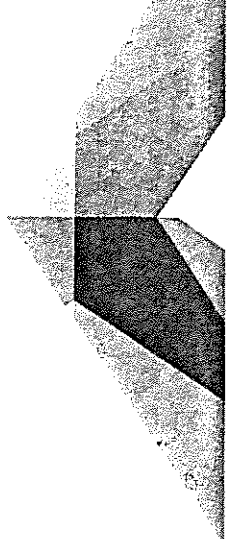
January 9, 2020

REGISTERED MAIL

Tina Marie Morash



To / Destinataire		FOR DELIVERY CONFIRMATION CONFIRMATION DE LA LIVRAISON <small>canadapost.ca / postescanada.ca</small> 1 888 550-6333 <small>CPC Tracking Number / Numéro de suivi de la BCP</small> RN 389 561 890 CA
Name / Nom		
Address / Adresse		
City / Prov. / Postal Code / Ville / Prov. / Code postal		
Declared Value / Valeur déclarée \$		
33-086-584 (17-12)		



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

This is to advise that your appeal of the Order to Remedy Dangerous and Unsightly 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 **February 13th, 2020**. 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, February 7th, 2020. (<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




Halifax Regional Municipality
1180-1180, Halifax, Nova Scotia
B3H 2R4

halifax.ca

February 5, 2020

REGISTERED MAIL

Tina Marie Morash


		REGISTERED DOMESTIC CUSTOMER RECEIPT		RECOMMANDÉ RÉGIME INTÉRIEUR REÇU DU CLIENT		
To	Destinataire			FOR DELIVERY CONFIRMATION CONFIRMATION DE LA LIVRAISON		
Name	Nom			canadapost.ca	postescanada.ca	
Address	Adresse			1 888 550-6333		
City / Prov. / Postal Code	Ville / Prov. / Code postal			CPC Tracking Number		Nombre de repérage de la SCP
Declared Value	Valeur déclarée	\$		RN 389 561 855 CA		
33-086-584 (17-12)						

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

This is to advise that your appeal of the Order to Remedy Dangerous and Unsightly 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 **March 12, 2020**. 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, March 6, 2020 (<https://www.halifax.ca/city-hall/agendas-meetings-reports>) 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

Krista Vining
 Legislative Assistant
 Office of the Municipal Clerk

- cc: Tanya Phillips, Manager By-law Standards
 Scott Hill, Regional Coordinator By-law
 Natalie Matheson, Support Services Supervisor, Municipal Compliance
 Laurie Lauder, Adjudication Clerk
 Karen MacDonald, Senior Solicitor, HRM Legal Services
 Jonathan Wells, Compliance Officer

Enclosure: Order of Proceedings for Appeals Standing Committee