



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

**Item No. 12.1.1**  
**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 28, 2020

**SUBJECT:** Appeal Report – Case 340008, 32 Elwin Crescent, Dartmouth

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#### **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-1 (Single Family 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 December 20, 2019. The complainant stated three derelict vehicles have been at the property for years.

This report will focus on the appeal dated January 31, 2020 by the property owner of the Order to Remedy for the derelict vehicles (case # 340008).

**CHRONOLOGY OF CASE ACTIVITIES:**

- 07-Jan-2020 The Compliance Officer conducted a site inspection at the property located at 32 Elwin Crescent, Dartmouth hereby referred to as the “property” (attached as Appendix B) and noted a red Pontiac Sunfire and a white Dodge Caravan deemed to be derelict due to deflated tires sunk into the ground, body damage including rusted rear quarter panels and no current license plates. The Compliance Officer hand delivered a 7-day Notice of Violation (attached as Appendix C) to a tenant on site who advised they were related to the property owner and agreed that the derelict vehicles needed to be removed.
- 08-Jan-2020 The Compliance Officer attempted to phone the property owner at the contact number on file and the phone number was no longer in service.
- 09-Jan-2020 The Compliance Officer received a phone call from the property owner. The property owner advised that they found the Notice of Violation crumpled in the trash bin. The property owner indicated they were more than willing to remove the vehicles, but the vehicles belonged to their partner. The property owner inquired if the Compliance Officer could send a letter to their partner to have them comply.
- 15-Jan-2020 The Compliance Officer spoke with the property owner who inquired if the Compliance Officer could issue Orders to their partner as they own the vehicles. The property owner explained that their partner is a non-practicing lawyer and refuses to acknowledge the Notice of Violation addressed to the property owner. The Compliance Officer explained that property violations are addressed with the property owner and that they would be re-inspecting the property the following week and issuing an Order to Remedy if the vehicles remain.
- 22-Jan-2020 The Compliance Officer conducted a site inspection and noted no change to the condition of the vehicles. The Compliance Officer spoke with the property owner on site and advised them the case was progressing to the Order stage.
- 23-Jan-2020 The Compliance Officer received a voicemail from the property owner’s partner requesting an extension as the derelict vehicles had been placed on Kijiji to be sold. The Compliance Officer found the derelict vehicles listed for sale on Kijiji.
- 24-Jan-2020 The Compliance Officer conducted a site inspection and noted no change to the condition of the vehicles. The Compliance Officer hand delivered a 7-day Order to Remedy (attached as Appendix D) to the property owner for the derelict vehicles. A copy was also sent to the property owner via registered mail.
- 31-Jan-2020 The property owner submitted a Notice of Appeal (attached as Appendix E) to the Municipal Clerk’s Office.

- 03-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 F).
- 04-Feb-2020 The Compliance Officer received a phone call from the property owner who advised they found a potential buyer for the vehicles.
- 05-Feb-2020 The property owner left a voicemail for the Compliance Officer requesting a call back as they lost their letter from the Clerk's Office. The property owner further advised that they found a buyer for the vehicles, however their partner refuses to sell the vehicles.
- 11-Feb-2020 The Compliance Officer left a phone message for the property owner and provided contact information for the Clerk's Office, so they may request a replacement letter.

### **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 Notice of Violation dated January 7, 2020  
Appendix D: Copy of the Order to Remedy dated January 24, 2020  
Appendix E: Copy of the appeal letter dated January 31, 2020  
Appendix F: Copy of the letter from the Clerk's Office dated February 3, 2020

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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: Vicki Pelley, Compliance Officer II, By-law Standards, 902.717.3903

Original Signed

Report Approved By:

Tanya Phillips, Program Manager, By-law Standards 902.490.4491

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## 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:

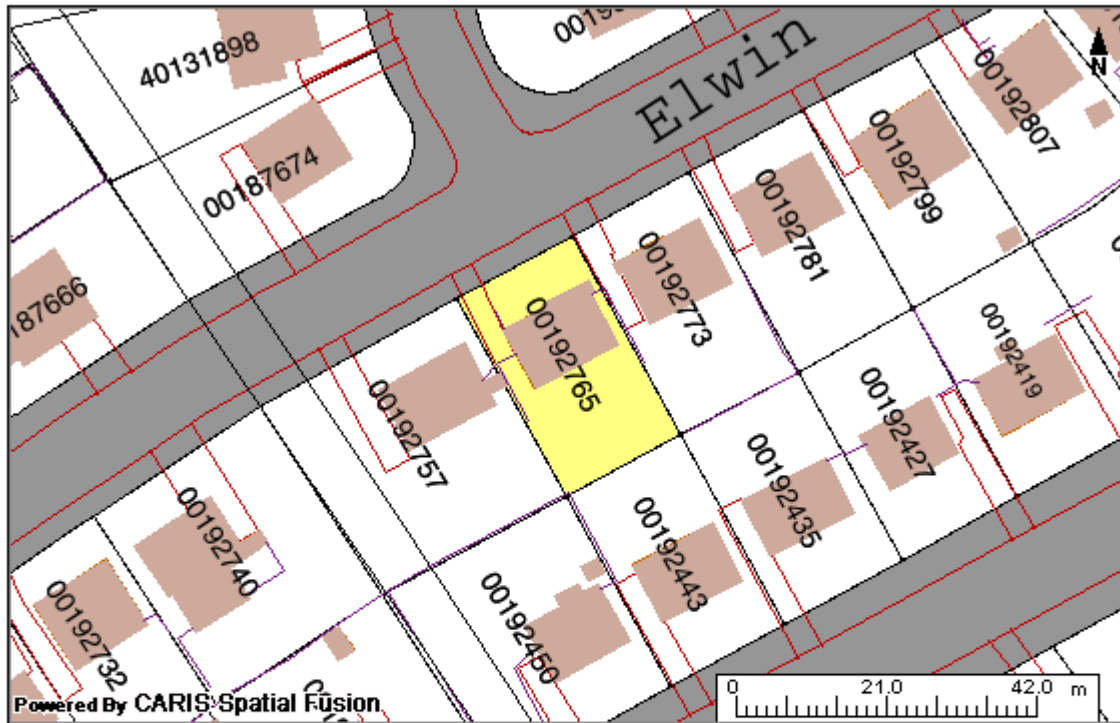
- 356 (2) An owner may appeal an order of the Administrator to the Council or to the committee to which the Council has delegated its authority within seven days after the order is made.
- (3A) Where the Council or the committee varies or overturns the order of the Administrator, the Council or committee 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: Feb 14, 2020 2:04:26 PM



<b>PID:</b> 00192765	<b>Owner:</b> MAURITA L RICHEY	<b>AAN:</b> 04972252
<b>County:</b> HALIFAX COUNTY	<b>Address:</b> 32 ELWIN CRESCENT DARTMOUTH	<b>Value:</b> \$197,800 (2020 RESIDENTIAL TAXABLE)
<b>LR Status:</b> NOT LAND REGISTRATION		

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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## Notice of Violation

Notice Served Upon: Name 32 ELWIN CRES  
or address \_\_\_\_\_

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 Unightly 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):

THE FOLLOWING VEHICLES (RED PONTIAC SUNFIRE & WHITE DODGE VAN) ARE DEEMED DERELICT DUE TO THE FACT THAT THEY APPEAR TO BE DERELICT OR ABANDONED BY REASON OF THEIR AGE, APPEARANCE, MECHANICAL CONDITION OR THEIR LACK OF LICENSE PLATES OR CURRENT REGISTRATIONS

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

REMOVE OR REMOVE THE VEHICLES FROM THE PROPERTY

Notice of Re-inspection:

A re-inspection will be performed on 7 DAYS 14/01/2020 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.

Logan Hamilton  
Issuing Officer

07/01/2020  
Date (dd/mm/yy)

902 476 3072  
Issuing Officer Phone Number  
Original Signed

14:20  
Time (hh/mm)

Issuing Officer Signature \_\_\_\_\_  
Original Signed \_\_\_\_\_

346008  
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 32 ELWIN CRES, DARTMOUTH, NS,  
[REDACTED] Case # 340008

Hereinafter referred to as the "Property"

**TO:** MAURITA L RICHEY

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

**AND WHEREAS** located on the Property is an unsightly or dangerous condition due to a red Pontiac Sunfire & a white Dodge Caravan van that have been deemed to be derelict due to the fact that they appear to be disused or abandoned by reason of their age, appearance, mechanical condition or their lack of license plates or current 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 red Pontiac Sunfire & white Dodge Caravan van, 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 24th of January, 2020 AD.

VICKI PELLEY  
COMPLIANCE OFFICER  
902-717-3903

Original Signed

  
SCOTT HILL  
Administrator  
Halifax Regional Municipality

**Appendix E**

██████████  
Dartmouth, Nova Scotia B2W 3J6

January 31, 2020

**VALID**



APPEALS STANDING COMMITTEE  
HALIFAX REGIONAL MUNICIPALITY ("HRM")  
BY FAX TO 902-490-4208 (3 pages)

Dear Committee Members:

**Re: Appeal, Property located at 32 Elwin Crescent, Dartmouth, Nova Scotia**  
██████████ ████████████ Case #340008

The attached notice of appeal was sent to you by FAX at 2:30 PM, Friday afternoon, but this letter was then omitted due to my pending absence from the computer, and in the interest of meeting the unreasonably short 7-day appeal deadline set out in the Order. (With rare exceptions, Supreme Court appeals to the Court of Appeal have 30 days or longer.) At the outset, let me assure all involved that my wife and I have every intention to have the alleged derelict vehicles disposed of as soon as possible. The involvement of HRM comes at an unfortunate time given the shared purpose of clearing the property of these vehicles.

The vehicles are mine, not my wife's, as she has been quick to tell HRM representatives at our door. There is a reason I was never home to deal with them personally, and it would have been better if they had arranged to meet with me. No such effort was made, to my knowledge. I have only recently resumed full-time residency at the property, after more than two years caring for my 95-year-old father (to be 96 in March) at his home in Fall River. This placed severe restrictions on my time, which although lessened, continue now that he has been admitted to the Veterans' Unit at Camp Hill Hospital. I try to spend time with him daily.

The move from Fall River back to Dartmouth was gradual, complicated by efforts on the part of my sister and me, and on behalf of siblings resident out-of-province, to clear out Dad's house and ready it for sale. Anyone who has been required to dispose of family belongings will just begin to appreciate the burden presented by almost 70 years of history, and the time required to do so.

As indicated by voice mail messages which I left for both Vicki Pelley and Logan Hamilton, HRM compliance officers, on January 20, 2020, the very day the vehicles were advertised, I had been without computer access during that period when it was desirable that ads for the sale of the vehicles on Kijiji would be set up online; this was a further hindrance because e-mail is required for prospective purchasers to respond. This was apparently to no avail, as four days later the HRM Order was delivered.



**Appendix E**

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Although my position is somewhat unique, given the pressures on me, I am making every possible effort to ready the vehicles for sale and removal. I ask only for reasonable time to do so, and I am willing to work with HRM by keeping you informed of those efforts and results. I should also point out that this is further hampered by winter weather, and my own inexperience in the sale of used vehicles. But I think it is readily agreed that given the uncertainty of the market it is difficult to predict how long it will take for these vehicles to find buyers ready to use them for repair, or for parts and salvage. I welcome advice from anyone with more experience than me in this undertaking.

I can - or should be - reached at [REDACTED] but I am very new at this cell phone technology, and am admittedly overwhelmed.

Yours very truly  
Original Signed

DAVID RICHEY

**Appendix E****NOTICE OF APPEAL**

**IN THE MATTER OF :** Property located at 32 Elwin Crescent, Dartmouth, Nova Scotia  
 [REDACTED] Case #340008  
 ("the property")

**TO:** APPEALS STANDING COMMITTEE  
 HALIFAX REGIONAL MUNICIPALITY ("HRM")  
 BY FAX TO 902-490-4208

**TAKE NOTICE** that Maurita Lorraine Richey and David Richey, "Appellants," the owners of the property, appeal the HRM "Order to remedy dangerous or unsightly premises" dated January 24, 2020;

**AND TAKE NOTICE** that the grounds of this appeal are that:

1. The Order fails to provide adequate notice for the Appellants to remedy the alleged dangerous or unsightly premises, and in particular,
2. The seven (7) days allowed for removal or repair of the alleged derelict vehicles is wholly inadequate and unreasonable for advertising and sale of the vehicles, to avoid a financial penalty to the Appellants;
3. The Order fails to acknowledge that voice mail messages were left by Appellant David Richey for Vicki Pelley and Logan Hamilton, HRM compliance officers, at contact numbers provided on a prior occasion, on January 20, 2020, advising of plans to advertise and sell the vehicles and reasons for the delay in doing so, as confirmed in the attached letter which is part of this appeal;
4. The vehicles which are subject of the order have value and if derelict do not render the the property neither dangerous nor unsightly;
5. In comparison with other properties in HRM which have apparently derelict vehicles, the Appellants are held to to a biased and unfair standard by HRM.

**AND FURTHER TAKE NOTICE** that the Appellants request that:

1. The Order be quashed and rendered null and void, or of no force or effect;
2. The Appellants be allowed a reasonable time to advertise and sell the vehicles.

**AND FURTHER TAKE NOTICE** that carriage of this Appeal for the Appellants will be managed by David Richey whose communications will be deemed to speak for both Appellants.

**DATED** at Dartmouth, Nova Scotia this 31<sup>st</sup> day of January, 2020.

Original Signed

Original Signed

**Maurita Lorraine Richey**  
 Appellant

**David Richey**  
 Appellant

# Appendix F

CANADA POSTES POST CANADA		<b>REGISTERED DOMESTIC</b> CUSTOMER RECEIPT	<b>RECOMMANDÉ RÉGIME INTÉRIEUR</b> REÇU DU CLIENT	<b>R</b>
To Name	Destinataire Nom	FOR DELIVERY CONFIRMATION		CONFIRMATION DE LA LIVRAISON
Address	Adresse	canadapost.ca ou postescanada.ca		
City / Prov. / Postal Code	Ville / Prov. / Code postal	1 888 550-6333		
Declared Value Valeur déclarée	\$	CPC Tracking Number Numéro de repérage de la BCP	RN 389 561 869 CA	
33-086-584 (17-12)				

February 3, 2020

## REGISTERED MAIL

Maurita Lorraine Richey  
David Richey



**Re: Case #340008 Property Located at 32 Elwin Crescent, Dartmouth**

This is to advise that your appeal will be heard by the Appeals Committee on **Thursday, March 12, 2020**. The hearing will be held in the Council Chamber, 3<sup>rd</sup> 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, 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.

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](http://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 902-490-6520.

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  
Vicki Pelley, Compliance Officer II

Enclosure: Order of Proceedings for Appeals Standing Committee



Halifax Regional Municipality  
PO Box 1749, Halifax, Nova Scotia  
Canada B3J 3A5

halifax.ca