

PICTOU PROVINCIAL COURT

Judge rejects RCMP request for production order

Court rules investigation may be 'infected' with tunnel vision

STEVE BRUCE
THE CHRONICLE HERALD
sbruce@herald.ca
@Steve_Courts

A Pictou judge has denied an RCMP application for a production order for medical records in relation to a fatal motor vehicle crash, saying the officer has already decided who was responsible for the accident and is looking for evidence to confirm his suspicion that they were impaired.

In a provincial court decision released Friday, Judge Del Atwood said the application filed by the Mounties reveals "material ambiguity on a number of important points," including the identity of the person who was driving the vehicle involved in the mishap.

"It is not clear whether the investigator realizes that," Atwood said.

The investigator asked the court for an order compelling a hospital to turn over emergency-room medical records for two people who survived a crash in which a third person died.

The judge did not disclose further details about the crash in his decision, citing a need to protect the privacy interests of those involved and the right to a fair trial in the event charges are laid.

Atwood noted that in the officer's correspondence to the court, he asked the judge to review, authorize and fax the signed warrant to the Stellarton RCMP detachment.

"It appears that the officer labours under the misapprehension — shared by a number of policing services in this part of the province — that the role of the court in the warrant-issuance process is an automatic one, merely to rubber-stamp applications by investigative agencies," the judge said. "Not so. This is because the decision whether to issue an order or warrant involves the exercise of judicial discretion."

Atwood then addressed the problems he had with the document, known as an information to obtain.

The officer declared under oath that the RCMP have statements from witnesses identifying the operator of the vehicle and claiming that person was driving at a very high speed.

But Atwood said his review of the ITO, which he confirmed as accurate with the prosecutor at the hearing, shows police actually have just one witness statement identifying the driver.

"From this, I draw the inference that either the ITO has failed to disclose other pertinent statements, or the ITO overstates the evidence which has been gathered by police," the judge said.

"In either case, I am led to the conclusion that the ITO does not present the court with that full-and-frank disclosure necessary ... to warrant the issuance of a production order. This would be enough to deny the application. There is more."

In the ITO, the officer then mentioned a suspicion that the driver's ability to operate the vehicle was impaired by alcohol.

"An ITO that reveals a subjective suspicion only — reasonable or otherwise — does not pass the test," Atwood said. "This is because ... mere suspicion is not sufficient for a (production) order."

The final defect in the ITO,

Atwood said, was the officer's statement that the medical records he was seeking would further his investigation and allow him to gather evidence to prove that the suspect was responsible for charges of impaired driving causing death and bodily harm.

"To be sure, an investigation will almost inevitably identify persons of interest," the judge said.

"However, a proper investigation will not fix itself prematurely on any one person, but will seek to put theories

of liability to the test. "Not so here, it seems. The investigator has locked on a person of interest and now seeks to gather information, not to test and challenge the accuracy of this preliminary theory, but to nail it down."

"This is dangerous territory. I say so because almost every commission of inquiry conducted in Canada into proven instances of wrongful conviction has identified investigative tunnel vision as being a major factor leading to miscarriages of justice.

Tunnel vision involves focusing prematurely on a person of interest, then gathering and analyzing evidence selectively. Evidence that confirms the identity of the person of interest as the offender will be preserved and made prominent; evidence that might be exculpatory will be discounted and written off."

Atwood said he believes this investigation is "infected with that very frailty."

"The investigator does not seek to scrutinize circumstances of ambiguity. Rather,

he has decided already who is responsible and he seeks evidence to confirm what is clearly a premature conclusion. That is an improper investigative purpose."

"Even if I were wrong about the factual and legal inadequacies of this ITO, I find that, exercising residual judicial discretion inherent in this process ... it would be improper for the court to grant the order sought where the purpose to be advanced by it would be improper. The application is denied."

MUNICIPAL GOVERNMENT NOTICES

Halifax Regional Municipality Notices will generally appear each Saturday in this section of the newspaper. Readers are still encouraged to look throughout the paper for information which might appear in a different section or on another day.

NOTICE OF VIRTUAL PUBLIC HEARING

HALIFAX REGIONAL COUNCIL

Halifax Regional Council intends to consider and, if deemed advisable, approve the following application:

Case 22367 - Application by Lloyd Robbins Law Inc, to amend the Cole Harbour/Westphal Municipal Planning Strategy to remove site-specific policy enabling commercial uses for lands at 272 Auburn Drive and rezone the property to R-4 zone to allow a multi-unit apartment building with a maximum of 6 unit.

A virtual public hearing will be held on September 22, 2020 at 6:00 p.m. All oral and written submissions will be considered at that time. This meeting will occur in a virtual setting and attending in person is not possible. Given the ongoing COVID-19 pandemic, written submissions are welcomed and encouraged in advanced of the hearing itself. These submissions are distributed to all Councillors and considered at the time of their decision. Written submissions may be forwarded to the Municipal Clerk by e-mail, clerks@halifax.ca; by fax, 902-490-4208; or by mail, P.O. Box 1749, Halifax, Nova Scotia, B3J 3A5. **Written submissions must be received by the Municipal Clerk's office as early as possible and not later than 3:00 p.m. on Tuesday, September 22, 2020.** Please allow sufficient time for delivery given slower than typical mail delivery times during the COVID-19 Pandemic.

The virtual public hearing will be webcasted and may be viewed online at <https://www.halifax.ca/city-hall/agendas-meetings-reports>. For individuals seeking to speak at the hearing, members of the public may contact the Municipal Clerk's office no later than 4:30pm on Monday, September 21, 2020 to be added to the speakers list to speak by telephone. We encourage all residents who have any desire to speak at the meeting to ask to have their name added to the list. Individuals who do not want to speak at a later time may ask to have their name removed from the speakers list. To be placed on the speakers list, individuals may:

- Send an email to clerks@halifax.ca; or
- Call and leave a voicemail at 902-490-4210; or
- Send a fax to the clerk at 902-490-4208.

In your message, please include the meeting body, the planning Case number (Case 22367) or civic address, in addition to your name, community of residence, email address, and telephone number. Should you have questions about the nature of application itself, please contact the planner directly at 902-240-7085 or macdoud@halifax.ca.

Should you have questions about the process of the virtual public hearing, please contact the Municipal Clerks Office at clerks@halifax.ca or 902-490-4210.

The staff report is available on-line at the following location: <https://www.halifax.ca/city-hall/agendas-meetings-reports>. If you have questions about how to access the staff report contact the Office of the Municipal Clerk clerks@halifax.ca or 902-490-4210. To arrange for a paper copy of application materials to be sent to you by mail if the internet is unavailable to you, contact the Planner.

Further details regarding the application can be found at the following location: www.halifax.ca/planning (Scroll down to Case 22367)

ACC #CPCO2310

NOTICE OF VIRTUAL PUBLIC HEARING FOR PLANNING DISTRICT 4 (PROSPECT)

WITH HALIFAX AND WEST COMMUNITY COUNCIL

Halifax and West Community Council intend to consider and, if deemed advisable, approve the following applications:

Case 22051 - Application by Sunrose Land Use Consulting on behalf of Hatcher Lake Plaza Ltd. to enter into a development agreement for service station and associated convenience store and drive-through restaurant at 1656 Prospect Road, Hatcher Lake.

Case 22624 - Application by James Thibault requesting to enter into a development agreement on lands at 2322-24 Hunter Street, Halifax to allow for the conversion of a legal non-conforming commercial use to two residential units creating a 6 unit residential building.

A virtual public hearing will be held on Thursday, September 24, 2020 at 6:00 p.m. All oral and written submissions will be considered at that time. This meeting will occur in a virtual setting and attending in person is not possible. Given the ongoing COVID-19 pandemic, written submissions are welcomed and encouraged in advanced of the hearing itself. These submissions are distributed to all Councillors and considered at the time of their decision. Written submissions may be forwarded to the Municipal Clerk by e-mail, clerks@halifax.ca; by fax, 902-490-4208; or by mail, P.O. Box 1749, Halifax, Nova Scotia, B3J 3A5. **Written submissions must be received by the Municipal Clerk's office as early as possible and not later than 3:00 p.m. on Thursday, September 24, 2020.** Please allow sufficient time for delivery given slower than typical mail delivery times during the COVID-19 Pandemic.

The virtual public hearings will be webcasted and may be viewed online at <https://www.halifax.ca/city-hall/agendas-meetings-reports>.

For individuals seeking to speak at the hearings, members of the public may contact the Municipal Clerk's office no later than 4:30 p.m. on Wednesday, September 23, 2020 to be added to the speakers list to speak by telephone. We encourage all residents who have any desire to speak at the meeting to ask to have their name added to the list. Individuals who do not want to speak at a later time may ask to have their name removed from the speakers list.

To be placed on the speakers list, individuals may:

- Send an email to clerks@halifax.ca; or
- Call and leave a voicemail at 902-490-4210; or
- Send a fax to the clerk at 902-490-4208.

In your message, please include the meeting body (Halifax and West Community Council), the planning Case number (Case 22051 or 22624) or civic address, in addition to your name, community of residence, email address, and telephone number. Should you have questions about the nature of the application itself, please contact Maria Jacobs directly at 902-943-4318 or jacobsm@halifax.ca.

Should you have questions about the process of the virtual public hearing, please contact the Municipal Clerks Office at clerks@halifax.ca or 902-490-4210.

The staff reports are available on-line at the following location: <https://www.halifax.ca/city-hall/agendas-meetings-reports>. If you have questions about how to access the staff reports contact the Office of the Municipal Clerk clerks@halifax.ca or 902-490-4210.

Further details regarding the applications can be found at the following location: www.halifax.ca/planning (Scroll down to Case 22051). To arrange for paper copies of the staff report and application materials to be sent to you by mail, contact the Planner.

ACC #CPCO2310

NOTICE OF VIRTUAL PUBLIC HEARING

REGIONAL CENTRE COMMUNITY COUNCIL

Regional Centre Community Council intends to consider and, if deemed advisable, approve the following application:

Case 22990 - Housekeeping amendments to the Regional Centre Land Use By-law to establish a geographical limitation to the application of the Halifax Citadel Rampart regulations.

A virtual public hearing will be held on Wednesday, September 23, 2020 at 6:00 p.m. All oral and written submissions will be considered at that time. This meeting will occur in a virtual setting and attending in person is not possible. Given the ongoing COVID-19 Pandemic, written submissions are welcomed and encouraged in advance of the hearing itself. These submissions are distributed to all Councillors and considered at the time of their decision. Written submissions may be forwarded to the Municipal Clerk by e-mail, clerks@halifax.ca; by fax, 902-490-4208; or by mail, P.O. Box 1749, Halifax, Nova Scotia, B3J 3A5. **Written submissions must be received by the Municipal Clerk's office as early as possible and not later than 3:00 p.m. on September 23, 2020.** Please allow sufficient time for delivery given slower than typical mail delivery times during the COVID-19 Pandemic.

The virtual public hearing will be webcasted and may be viewed online at <https://www.halifax.ca/city-hall/agendas-meetings-reports>. For individuals seeking to speak at the hearing, members of the public may contact the Municipal Clerk's office no later than 4:30pm on Tuesday, September 22, 2020 to be added to the speakers list to speak by telephone. We encourage all residents who have any desire to speak at the meeting to ask to have their name added to the list. Individuals who do not want to speak at a later time may ask to have their name removed from the speakers list.

To be placed on the speakers list, individuals may:

- Send an email to clerks@halifax.ca; or
- Call and leave a voicemail at 902-490-4210; or
- Send a fax to the clerk at 902-490-4208.

In your message, please include the meeting body (Regional Centre Community Council) and the planning Case number (22990), in addition to your name, community of residence, email address, and telephone number. Should you have questions about the nature of the application itself, please contact the planner directly at 902-717-4357 or quell@halifax.ca.

Should you have questions about the process of the virtual public hearing, please contact the Municipal Clerks Office at clerks@halifax.ca or 902-490-4210.

The staff report is available on-line at the following location: <https://www.halifax.ca/city-hall/agendas-meetings-reports>. If you have questions about how to access the staff report, please contact the Office of the Municipal Clerk clerks@halifax.ca or 902-490-4210.

Further details regarding the application can be found at the following location: www.halifax.ca/planning (Scroll down to Case 22990)

ACC #C002-6912

PLEASE SEE SECTION 158 - EMPLOYMENT OPPORTUNITIES IN SATURDAY'S PAPER AND SECTION 258 - TENDERS IN CLASSIFIEDS FOR ALL TENDERS AND REQUESTS FOR PROPOSALS ADVERTISEMENTS IN SATURDAY AND WEDNESDAY'S EDITIONS

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FOR MORE INFORMATION ON MUNICIPAL MEETINGS AND EVENTS VISIT WWW.HALIFAX.CA/CALENDAR BOX 1749, HALIFAX, NOVA SCOTIA B3J 3A5

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