



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

**Item No. 7.1.1**  
**Appeals Standing Committee**  
**December 10, 2020**

**TO:** Chair and Members of Appeals Standing Committee

Original Signed

**SUBMITTED BY:** \_\_\_\_\_  
Conor O’Dea, Manager, Buildings and Compliance

**DATE:** December 1, 2020

**SUBJECT:** **Appeal Report – Case 347202, 205 Prince Arthur Avenue, 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-2 (Two Family Residential Zone) and a review of the Hansen database system shows no permits have been issued to the property owner.

A complaint was received by service request on August 5, 2020. The complainant indicated a lack of lawn maintenance. The Compliance Officer conducted a site inspection and noted derelict vehicle and lawn maintenance violations. The Compliance Officer managed the lawn maintenance violations under a separate case which was closed as owner compliance.

There have been no subsequent complaints regarding the property.

This report will focus on the appeal dated September 4, 2020 by the property owner of the Order to Remedy for the derelict vehicles (case # 347202).

**CHRONOLOGY OF CASE ACTIVITIES:**

- 10-Aug-2020 The Compliance Officer conducted a site inspection at 205 Prince Arthur Avenue, Dartmouth thereafter referred to as “the property” (attached as Appendix B).
- The Compliance Officer noted two derelict vehicles, a Ford Taurus and a Honda Accord and posted a 7-day Notice of Violation (attached as Appendix C) at the property.
- 12-Aug-2020 The property owner contacted the Compliance Officer and advised that they plan to repair and sell the derelict vehicles and asked for an extension until September 30, 2020.
- The Compliance Officer advised the property owner that a reinspection is scheduled for August 21, 2020 and that an extension may be granted if progress is being made towards compliance.
- 21-Aug-2020 The property owner left a phone message for the Compliance Officer stating that they sold the Honda Accord and intend to get rid of the Ford Taurus.
- 26-Aug-2020 The Compliance Officer conducted a site inspection and noted no change to the condition of the derelict vehicles.
- 27-Aug-2020 The Compliance Officer left a phone message for the property owner advising a 7-day Order to Remedy would be issued for the derelict vehicles.
- 28-Aug-2020 The Compliance Officer conducted a site inspection and noted the violations remained.
- The Compliance Officer hand delivered a 7-day Order to Remedy (attached as Appendix D) to the property owner and explained their right to appeal and the remedy process.
- The Compliance Officer explained to the property owner that both vehicles have expired plates and motor vehicle inspections along with flat tires. The Officer also noted that the Ford Taurus showed damage to the body of the vehicle and around the gas tank. The property owner told the Compliance Officer that the Honda Accord was sold and they plan on selling the Ford Taurus. A copy of the Order to Remedy was also sent to the property owner through registered mail.

- 3-Sep-2020 The Compliance Officer left a voice message for the property owner requesting a call back.
- 4-Sep-2020 The property owner submitted a Notice of Appeal (attached as Appendix E) to the Municipal Clerk's Office.
- 8-Sep-2020 The Municipal Clerk's Office sent the property owner a letter advising the appeal would be heard at the November 12, 2020 Appeals Standing Committee meeting (attached as Appendix F).
- 24-Sep-2020 The Municipal Clerk's Office sent the property owner a letter advising the appeal would be heard at the December 10, 2020 Appeals Standing Committee meeting (attached as Appendix G).
- 13-Nov-2020 The Compliance Officer conducted a site inspection and noted no change to the condition of the derelict vehicles.
- 14-Nov-2020 The Compliance Officer left a phone message for the property owner inquiring about the repair and/or removal of the derelict vehicles.

### **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 August 10, 2020
  - Appendix D: Copy of the Order to Remedy dated August 28, 2020
  - Appendix E: Copy of the Notice of Appeal dated September 4, 2020
  - Appendix F: Copy of the letter from the Clerk's Office dated September 8, 2020
  - Appendix G: Copy of the letter from the Clerk's Office dated September 24, 2020
- 

A copy of this report can be obtained online at [Halifax.ca](http://Halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared For: Trevor Oliver, Compliance Officer II, By-law Standards, 902.476.4257

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:

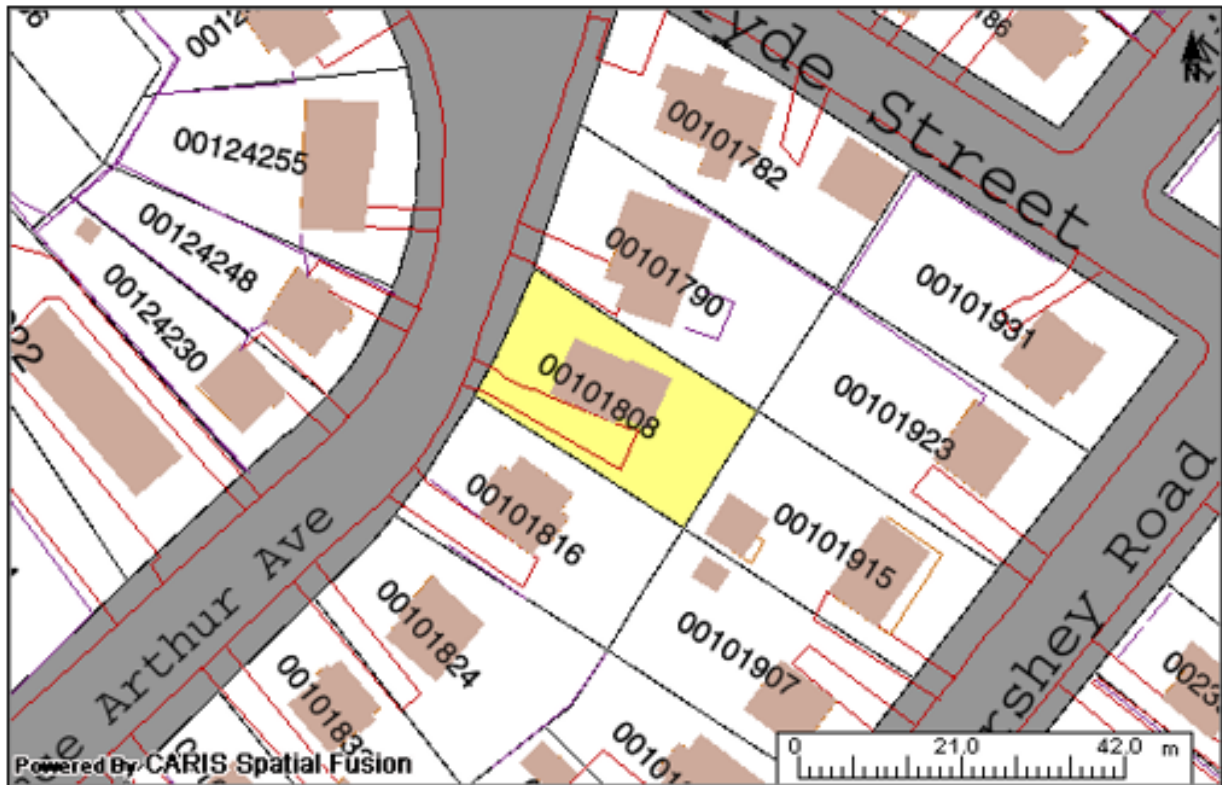
- (q) "dangerous or unsightly" means partly demolished, decayed, deteriorated or in a state of disrepair so as to be dangerous, unsightly or unhealthy, and includes property containing
- (i) ashes, junk, cleanings of yards or other rubbish or refuse or a derelict vehicle, vessel, item of equipment or 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;

## Appendix B



### Property Online Map

Date: Nov 23, 2020 11:51:23 AM



PID:	00101808	Owner:	JAMES B BENDELL	AAN:	00284289
County:	HALIFAX COUNTY		HELEN D BENDELL	Value:	\$229,800 (2020 RESIDENTIAL TAXABLE)
LR Status:	NOT LAND REGISTRATION	Address:	205 PRINCE ARTHUR AVENUE DARTMOUTH		

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](#), all rights reserved.

## Notice of Violation

Notice Served Upon: Name 205 Prince Arthur Avenue  
or address Dartmouth, Nova Scotia

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

- |  |   |
|--|---|
| <input type="checkbox"/> HRM By-law A-700 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):

Depliant vehicles including a silver Ford  
Taurus and a white Honda Accord

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

Repair or remove the depliant silver Ford  
Taurus and the white Honda Accord

Notice of Re-inspection:

A re-inspection will be performed on August 17, 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.

Travis Oliver  
Issuing Officer

10/08/20  
Date (dd/mm/yy)

902-476-4257  
Issuing Officer Phone Number

1416  
Time (hh/mm)

Original Signed

TBD

Issuing Officer signature

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 205 PRINCE ARTHUR AVE, DARTMOUTH, NS,  
[REDACTED] Case # 347202  
Hereinafter referred to as the "Property"

**TO:** JAMES B BENDELL

[REDACTED]  
HELEN D BENDELL  
[REDACTED]

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

**AND WHEREAS** located on the Property is an unsightly or dangerous condition due to a silver Ford Taurus and a white Honda Accord that have been deemed 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 licence plates 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 silver Ford Taurus and the white Honda Accord, 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 28th of August, 2020 AD. Original Signed

TREVOR OLIVER  
COMPLIANCE OFFICER  
Phone: (902)476-4257 x

SCOTT HILL  
Administrator  
Halifax Regional Municipality



**Appendix E**

**VALID**

**Stewart, April**

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**From:** Jim Bendell [REDACTED]  
**Sent:** Friday, September 4, 2020 11:51 AM  
**To:** Office, Clerks  
**Subject:** [External Email] Notice of Appeal Of An Order to Remedy Dangerous or Unsightly Property (Case #347202)

*[This email has been received from an external person or system]*

Hello;

I would like to appeal an Order to Remedy Dangerous or Unsightly Property.

**Name:** James B Bendell

**Case Number:** 347202

**Address:** 205 Prince Arthur Avenue, Dartmouth, NS

**Reasons:** I will enumerate my reasons at the hearing.

**Please acknowledge the receipt of this E-mail. Thank you.**

James B Bendell





## Appendix F

September 8, 2020

### REGISTERED MAIL

Jim Bendell  
[REDACTED]

		<b>REGISTERED DOMESTIC</b>	<b>RECOMMANDÉ RÉGIME INTÉRIEUR</b>	
		CUSTOMER RECEIPT	REÇU DU CLIENT	
To Name	Destinataire Nom	FOR DELIVERY CONFIRMATION canadapost.ca		CÔNFORMATION DE LA LIVRAISON postescanada.ca
Address	Adresse	1 888 550-6333		
City / Prov. / Postal Code	Ville / Prov. / Code postal	CPC Tracking Number RN 388 304 682 CA		Nombre de repérage de la SCP
Declared Value Valeur déclarée	\$	33-086-584 (17-12)		

**Re: Appeal of Order to Remedy Case 347203, Property Located at 205 Prince Arthur Avenue, Dartmouth**

This letter confirms receipt of your request to appeal the Order to Remedy issued August 28, 2020 for the property located at 205 Prince Arthur Avenue, Dartmouth (Case 347202).

Your appeal hearing has been scheduled for **Thursday, November 12, 2020 at 10:15 a.m.** in the Council Chamber, 3<sup>rd</sup> Floor, City Hall, 1841 Argyle Street, Halifax. As of July 31, 2020, non-medical masks must be worn at all times within City Hall. You may bring one (1) support person with you.

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 6, 2020 (<https://www.halifax.ca/city-hall/aqendas-meetings-reports>) If you require a hard copy of the report, please contact our office.

Please 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

[REDACTED SIGNATURE]  
Krista Vining  
Legislative Assistant  
Office of the Municipal Clerk

H/ L F/ )

2020-11-08 10:15:00 AM  
33-086-584 (17-12)  
33-086-584 (17-12)

## Appendix F

cc: Tanya Phillips, Manager By-law Standards  
Scott Hill, Regional Coordinator By-law  
Natalie Matheson, Support Services Supervisor, Municipal Compliance  
Laurie Lauder, Adjudication Clerk  
Trevor Oliver, Compliance Officer

Enclosed: Order of Proceedings Appeals Standing Committee

HV L F )

City of York Region  
10000 Yonge Street, Suite 100  
Markham, ON L3R 0A5

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# Appendix G

September 24, 2020

## REGISTERED MAIL

Jim Bendell



<b>CANADA POST / POSTES CANADA</b>		<b>REGISTERED DOMESTIC</b> CUSTOMER RECEIPT	<b>RECOMMANDÉ RÉGIME INTÉRIEUR</b> REÇU DU CLIENT	<b>R</b>
<b>To / Destinataire</b>	<b>Name / Nom</b>	<b>FOR DELIVERY CONFIRMATION / CONFIRMATION DE LA LIVRAISON</b>		
<b>Address / Adresse</b>	<b>City / Prov. / Postal Code / Ville / Prov. / Code postal</b>	canadapost.ca	postescanada.ca	
<b>Declared Value / Valeur déclarée</b>	<b>\$</b>	<b>CPC Tracking Number / Numéro de repérage de la BCP</b>		
<b>33-086-584 (17-12)</b>		<b>1 888 550-6333</b>		<b>RN 388 304 740 CA</b>

**Re: Appeal of Order to Remedy Case 347202, Property Located at 205 Prince Arthur Avenue, Dartmouth**

Please be advised that your appeal hearing originally scheduled for November 12, 2020 has been **rescheduled to Thursday, December 10, 2020 at 10:00 a.m.** in the Council Chamber, 3<sup>rd</sup> Floor, City Hall, 1841 Argyle Street, Halifax. As of July 31, 2020, non-medical masks must be worn at all times within City Hall. You may bring one (1) support person with you.

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 4, 2020 (<https://www.halifax.ca/city-hall/agendas-meetings-reports>) If you require a hard copy of the report, please contact our office.

Please 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



## **Appendix G**

cc: Tanya Phillips, Manager By-law Standards  
Scott Hill, Regional Coordinator By-law  
Natalie Matheson, Support Services Supervisor, Municipal Compliance  
Laurie Lauder, Adjudication Clerk  
Trevor Oliver, Compliance Officer

Enclosed: Order of Proceedings Appeals Standing Committee