



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

**Item No. 7.1.2**  
**Appeals Standing Committee**  
**March 11, 2021**

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

**Original signed**

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

**DATE:** February 26, 2021

**SUBJECT:** Appeal Report – Case 353242, 94 Windship Lane, Duncans Cove

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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 have been seven previous dangerous or unsightly cases at the property, six were closed as owner compliance and one was closed as case closed with no remedy required by HRM. There is an open case with Building Inspection for the unsafe decking.

The property is zoned R-6 (Rural Residential Zone) and a review of the Hansen database system shows a construction permit was issued to the property owner on September 14, 2018 to rebuild the rear and side decks.

A complaint was received by service request on February 3, 2021. The complaint stated they suffered property damage resulting from loose construction debris flying from this property. The Compliance Officer conducted a site inspection and noted exterior maintenance violations to the dwelling and deck resulting in missing, broken, rotten and decaying components including missing and broken siding, exposed Tyvek, missing sheathing, missing gutters, broken windows, missing deck rails, spindles and deck posts, decaying and missing deck floor boards and planks allowing access to the top deck.

There have been no subsequent complaints regarding the property.

This report will focus on the appeal dated February 16, 2021 by the property owner of the Order to Remedy for the exterior maintenance violations (case # 353242).

**CHRONOLOGY OF CASE ACTIVITIES:**

04-Feb-2021 The Compliance Officer spoke with the complainant by phone. The complainant advised the Compliance Officer that during the last wind storm corrugated metal roofing blew off the roof of the property in question and smashed a window on their property. They further advised of an unsafe back deck due to missing deck rails and being over a 100-foot cliff.

The Compliance Officer conducted a site inspection at 94 Windship Lane, Duncans Cove thereafter referred to as “the property” (attached as Appendix B).

The Compliance Officer noted exterior maintenance violations to the dwelling and deck.

The Compliance Officer spoke with the property owner by phone and explained the concerns regarding the lack of exterior maintenance to the dwelling and deck as well as blowing debris. The Compliance Officer advised that they would be issuing a 60-day Order to Remedy for the violations. The Officer also explained the appeal processes as well as the steps HRM would take if the property owner or their representative could not complete the necessary work. The Compliance Officer advised they would scan a copy of the Order to Remedy and also send a copy through registered mail.

11-Feb-2021 The Compliance Officer conducted a site inspection and noted the violation still exists. The Compliance Officer posted a 60-day Order to Remedy (attached as Appendix C) at the property. A copy was also sent through registered mail and emailed to the property owner.

12-Feb-2021 The property owner phoned the Compliance Officer and inquired about the Orders and the appeal process.

The Compliance Officer emailed the property owner the link detailing how to file an appeal.

16-Feb-2021 The property owner submitted a Notice of Appeal (attached as Appendix D) to the Municipal Clerk’s Office.

18-Feb-2021 The Municipal Clerk's Office sent the property owner a letter advising the appeal would be heard at the March 11, 2021 Appeals Standing Committee meeting (attached as Appendix E).

### **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 February 11, 2021
- Appendix D: Copy of the Notice of Appeal dated February 16, 2021
- Appendix E: Copy of the letter from the Clerk's Office dated February 18, 2021

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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: Logan Hamilton, Compliance Officer II, By-law Standards, 902.476.3072

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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:

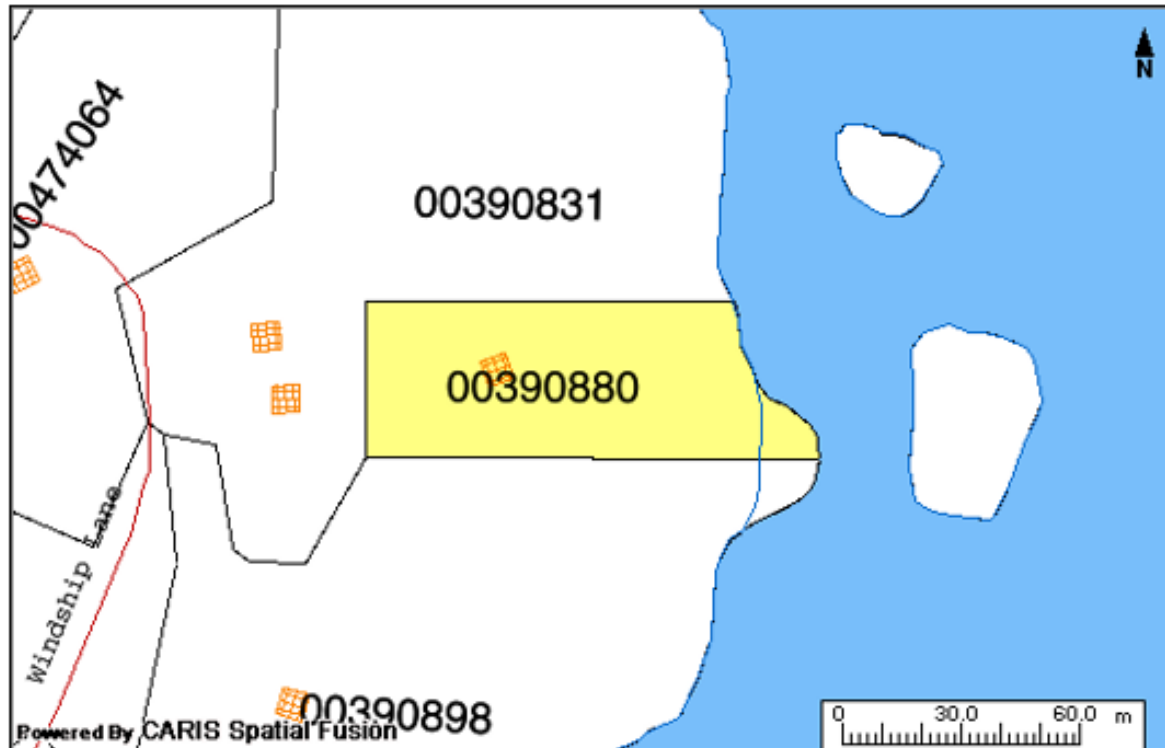
- (q) "dangerous or unsightly" means partly demolished, decayed, deteriorated or in a state of disrepair so as to be dangerous, unsightly or unhealthy, and includes property containing
- (i) ashes, junk, cleanings of yards or other rubbish or refuse or a derelict vehicle, vessel, item of equipment or 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: Feb 22, 2021 10:31:01 AM



PID:	00390880	Owner:	SHAFIK HASSANALI JIWA	AAN:	01278657
County:	HALIFAX COUNTY	Address:	94 WINDSHIP LANE DUNCANS COVE	Value:	\$250,300 (2021 RESIDENTIAL TAXABLE)
LR Status:	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



**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 94 WINDSHIP LANE, DUNCANS COVE, NS,  
Case # 353242

Hereinafter referred to as the "Property"

**TO:** SHAFIK HASSANALI JIWA

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

**AND WHEREAS** located on the Property is an unsightly or dangerous condition due to a lack of exterior maintenance to the dwelling and deck resulting in missing and broken components and the rotten and decaying wooden components including but not limited to missing and broken siding, ripped Tyvek, missing gutters, broken windows, missing deck railings and spindles, missing deck posts, decaying and missing deck floor boards, missing exterior sheathing and other deteriorated and missing features, 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 replacing the missing and broken components and the rotten and decaying wooden components including but not limited to missing and broken siding, ripped Tyvek, missing gutters, and the missing exterior sheathing and any other deteriorated and missing features. As well as repairing or removing the deck and repairing, replacing or boarding up the broken windows, 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 sixty (60) 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 11th of February, 2021 AD. **Original Signed**

LOGAN HAMILTON  
COMPLIANCE OFFICER  
Phone: 902-476-3072 x

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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 94 Windhsip Lane, Duncan's Cove NS  
Case # 353242  
PID # \_\_\_\_\_  
Tax # \_\_\_\_\_

I Shafik Hassanali Jiwa wish to file this Written Notice of Appeal in relation to the Order I received dated the 11 day of February, 20 21 from the Compliance Officer respecting the above noted Property.

The reason for appeal is:

Please see the attached document below for the reason of the appeal.

\*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 Chestermere, AB ~~Nova Scotia~~ this 16 day of February, 20 21.

Shafik Hassanali Jiwa  
Legal Name of Appellant (please print)

Shafik Jiwa  
Preferred Name

Original Signed

*Shafik Jiwa*  
Signature of Appellant

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Contact Number or Email

SEND TO:  
**Office of the Municipal Clerk**  
P.O. Box 1749  
Halifax, NS B3J 3A5  
Fax: 902-490-4208  
Email: [clerks@halifax.ca](mailto:clerks@halifax.ca)  
  
Deliver in person: City Hall, 1841 Argyle Street, Halifax (Mon-Fri, 8:30am-4:30pm)

The reason for the appeal:

We live in Alberta. We have been handicapped and unable to travel due to the COVID-19 travel and health restrictions.

We hope to travel there when the restrictions have lifted and hopefully the Covid-19 vaccine has become available. We would like to request till the end of the year to resolve all issues to bylaw compliance standards/codes and also meet industry standards.

The property was never disregarded. As a matter of fact, the property was in the process of being fully renovated (exterior). It was derailed [REDACTED]

[REDACTED] Furthermore, [REDACTED]

[REDACTED] Since that time, we have had a difficult time sourcing trustworthy contractors (in Halifax), remotely from Alberta.

With the pandemic and restrictions imposed, it is difficult to travel to Halifax. Some contractors have declined as they are really busy, others have said they will call and don't bother returning our calls even after we follow up! Some contractors will not come out there unless we are present due to liability issues and also to correctly identify the nature of work required. All the debris has been cleared up and the insurance company has secured the property by boarding up all the broken windows. Temporary railings have also been put on part of the deck. We need additional time to get the right contractors engaged to resolve the outstanding issues, which again have been hindered by our inability to travel there due to the pandemic.

We can assure you that the property will be brought back to full compliance and meet the standards and the codes.

Thank you for your consideration.



## Appendix E

February 18, 2021

### REGISTERED MAIL

SHAFIK HASSANALI JIWA

CANADA POST / POSTES CANADA		<b>REGISTERED DOMESTIC</b> CUSTOMER RECEIPT	<b>RECOMMANDÉ RÉGIME INTÉRIEUR</b> REÇU DU CLIENT	<b>R</b>
To / À	SHAFIK	Destinataire		
Name / Nom		Nom		
Address / Adresse		Adresse		
City / Prov. / Postal Code		Ville / Prov. / Code postal		
Declared Value / Valeur déclarée		\$		
33-085-584 (17-12)		FOR DELIVERY CONFIRMATION / CONFIRMATION DE LA LIVRAISON		
		canadapost.ca / postescanada.ca		
		1 888 550-6333		
		CPC Tracking Number / Numéro de suivi de la SCP		
		RN 388 308 446 CA		

Re: Appeal to Order to Remedy Case 353242: 94 WINDSHIP LANE, DUNCANS COVE, NS.

The letter confirms receipt of your appeal of the Order to Remedy issued February 11<sup>th</sup>, 2021.

Due to public health measures resulting from COVID-19 appeal hearings are not able to be scheduled in person and will be done virtually. Your appeal hearing has been scheduled for Thursday March 11, 2021 at 10:00a.m. Details on how the virtual meeting and order of proceedings will be sent in a subsequent letter at a later time.

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 5, 2021. (<https://www.halifax.ca/city-hall/agendas-meetings-reports?category=131>) 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 your [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 the virtual meeting, you may have a representative attend on your behalf to present your appeal to the Committee. Please note that your representative is required to have a letter signed by you giving permission and may be asked to provide it to the Clerk's Office in advance of the meeting. If you intend on having someone speak on your behalf or a witness, please have them contact me so arrangements can be made to give them the virtual meeting details. Documents and photographs, if any, need to be provided to the Clerk's Office three (3) days in advance of the hearing. If neither you nor a representative attends the virtual meeting, 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 (902-490-6521).

Sincerely,  
Original Signed

Liam Power

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  
Logan Hamilton, Compliance Officer

**HALIFAX**

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

[halifax.ca](http://halifax.ca)