



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

**Item No. 12.1.1**  
**Appeals Standing Committee**  
**November 18, 2021**

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

Original Signed

**SUBMITTED BY:** \_\_\_\_\_  
Andrea MacDonald, Acting Director, Buildings and Compliance

**DATE:** November 3, 2021

**SUBJECT:** **Appeal Report – Case 360876, 32 Quartz Drive, Halifax**

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**ORIGIN**

Appeal of an Order to Remedy the condition of a property pursuant to the Dangerous or Unightly 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 four previous dangerous or unsightly cases at the property. Two cases have been closed by HRM completing remedies for debris removal and lawn maintenance. There are two other cases where HRM will be completing the remedy. One case is due to the time limits expiring for the Demolition Order that was issued at the July 8, 2021 meeting of the Appeals Standing Committee. The other case is for a lack of landscaping.

The property is zoned RDD (Residential Development District) 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 16, 2021. The complainant stated an abandoned vehicle had been dumped at the property. The Compliance Officer conducted a site inspection and noted a silver Dodge Dakota truck with expired plates in the driveway.

There have been no subsequent complaints regarding the property.

This report will focus on the appeal dated October 12, 2021 submitted by the property owner of the Order to Remedy for the derelict vehicle violation (case # 360876).

**CHRONOLOGY OF CASE ACTIVITIES:**

- 20-Aug-2021 The Compliance Officer conducted a site inspection at 32 Quartz Drive, Halifax thereafter referred to as “the property” (attached as Appendix B).
- The Compliance Officer noted a silver Dodge Dakota truck with an expired license plate at the property.
- The Compliance Officer requested a DMV search of the license plate and found the plate registration did not match the vehicle.
- 22-Sept-2021 The Compliance Officer conducted a site inspection and noted the derelict vehicle had not moved and had a flat tire.
- The Compliance Officer phoned the property owner and was unable to leave a message as the mailbox was full.
- 06-Oct-2021 The Compliance Officer conducted a site inspection and noted the violation still exists. The Compliance Officer posted a 7-day Order to Remedy (attached as Appendix C) on the derelict vehicle and front door of the building at the property.
- 12-Oct-2021 The property owner submitted a Notice of Appeal (attached as Appendix D) to the Municipal Clerk’s Office.
- 25-Oct-2021 The Municipal Clerk’s Office sent the property owner a letter advising the appeal would be heard at the November 18, 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 October 6, 2021
- Appendix D: Copy of the Notice of Appeal dated October 12, 2021
- Appendix E: Copy of the letter from the Clerk's Office dated October 25, 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: Kevin Berrigan, Compliance Officer II, By-law Standards, 902.471.2051

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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:

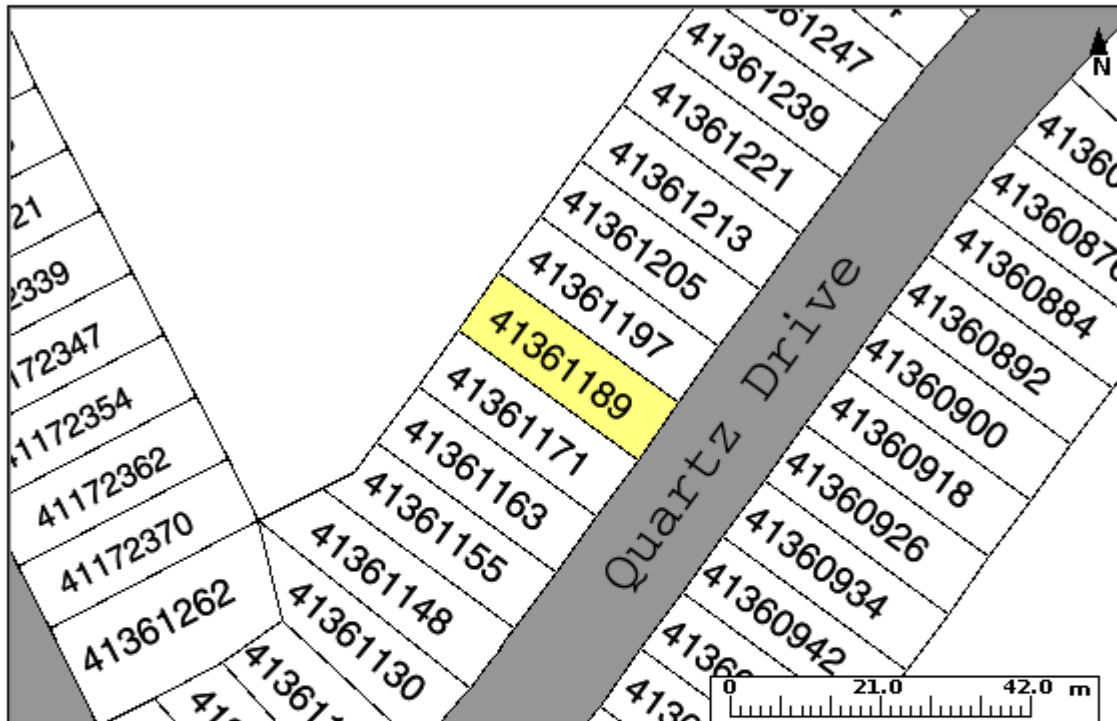
- (q) "dangerous or unsightly" means partly demolished, decayed, deteriorated or in a state of disrepair so as to be dangerous, unsightly or unhealthy, and includes property containing
- (i) ashes, junk, cleanings of yards or other rubbish or refuse or a derelict vehicle, vessel, item of equipment or 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: Oct 25, 2021 3:11:46 PM



<b>PID:</b> 41361189	<b>Owner:</b> LAUREN CLEVELAND	<b>AAN:</b> 10438195
<b>County:</b> HALIFAX COUNTY	TYLER MCMAHON	<b>Value:</b> \$309,700 (2021 RESIDENTIAL TAXABLE)
<b>LR Status:</b> LAND REGISTRATION	<b>Address:</b> 32 QUARTZ DRIVE	
	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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**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 QUARTZ DR, HALIFAX, NS,  
[REDACTED] Case # 360876  
Hereinafter referred to as the "Property"

**TO:** LAUREN CLEVELAND  
[REDACTED]  
TYLER MCMAHON  
[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 Dodge Dakota deemed to be derelict due to the fact that it appears to be disused or abandoned by reason of their age, appearance, mechanical condition, or their lack of license 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 removing the silver Dodge Dakota that has been deemed to be derelict due to the fact that it appears to be disused or abandoned by reason of their age, appearance, mechanical condition, or their lack of license plates, or current vehicle registration, 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.

**Original Signed**

**DATED** at Halifax, Nova Scotia this 6th of October, 2021 AD.

KEVIN BERRIGAN  
COMPLIANCE OFFICER  
Phone: (902)471-2051 x

\_\_\_\_\_  
SCOTT HILL  
Administrator  
Halifax Regional Municipality

## Appendix D

Vining, Krista

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**From:** Office, Clerks  
**Sent:** Tuesday, October 12, 2021 1:29 PM  
**To:** Vining, Krista  
**Subject:** FW: [External Email] case #360876

Logged for ASC

**From:** [REDACTED]  
**Sent:** Tuesday, October 12, 2021 12:53 PM  
**To:** Office, Clerks [REDACTED]  
**Subject:** [External Email] case #360876

**VALID**

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

Good afternoon,

I am appealing the decision to have the truck removed from 32 Quartzdrive. It is still my property and anything on it is mine.

Regards  
Tyler McMahon

# Appendix E

October 25, 2021

REGISTERED MAIL

Tyler Cleveland  
[REDACTED]

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

Re: Case 360876, Property located at 32 Quartz Drive, Halifax

This is to advise that your appeal will be heard on **Thursday, November 18, 2021 at 10:00 a.m.** by the Appeals Standing Committee. **This meeting will be in-person in the Council Chamber, Halifax City Hall, 1841 Argyle Street, Halifax.**

As per public health requirements, masks must be worn during in-person meetings other than when an individual is called upon to speak by the Chair. To enter the building and attend the meeting, **Proof of Full COVID-19 Vaccination is required.** More information about attending in-person meetings can be found here: <https://www.halifax.ca/city-hall/regional-council/attending-person-meetings>

If you cannot attend the meeting in person, you may participate via phone. **If you must use the phone option, please contact me at 902.490.6521 or viningk@halifax.ca by 4:30pm on Tuesday, November 16, 2021 (two (2) business days before of the meeting).**

The staff report for this matter will be posted online to the Appeals Standing Committee webpage at Halifax.ca by end of day the Friday prior to your hearing. 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 online at 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 form part of the public record but will not be posted online. 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. If neither you or a representative appears, the hearing will proceed, and you will be advised of the Committee's decision.

If you have any questions, please contact me at 902.490.6521 or email viningk@halifax.ca.

Sincerely,

Original Signed

Natalie 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  
Lauree Lauder, Adjudication Clerk

**HALIFAX**

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

halifax.ca



## Appendix E

Kevin Berrigan, Compliance Officer II

Encl. Order of Proceedings for Appeals Standing Committee

## Appendix E

### Order of Proceedings for Appeals Standing Committee

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The Chair will open each of the hearings and address the following:

- The Chair will ask the Appellant (property owner/taxi licence holder) to identify themselves and provide their contact information
- If a person is appearing on behalf of an Appellant who is not present (legal counsel, family member, friend), they must provide written authorization to act on the Appellant's behalf
- The Chair will briefly explain the hearing will proceed (as follows):
- **Staff Presentation:** The HRM staff presenter explains the basis for the order under review and presents evidence in support of the order (including any documents or recent photos of the property, if applicable)
- The Committee may ask questions of the HRM staff presenter for clarification
- The Appellant may ask questions of the HRM staff presenter for clarification
- Non-party witnesses\* may be permitted to provide factual evidence relevant to the appeal
- The Appellant may ask questions of non-party witnesses for clarification
- **Appellant's Presentation:** The Appellant is granted reasonable time to present evidence in support of the appeal (documents/photos/witnesses)
- The Committee may ask questions to the Appellant and/or their witnesses
- The Appellant or their representative is then permitted up to 10 minutes to make a verbal submission in support of their case to reverse the order
- The Committee may ask questions to the Appellant and also further questions of HRM staff (subject to Appellant's response to the answers)
- Staff may ask questions to the Appellant (subject to Appellant's response to the answers)
- The Committee then debates their decision and renders a decision with the Appellant or his/her representative present
- Upon motion the Committee may move In Camera (In Private) to obtain confidential legal advice at any time during the process
- The Committee has four (4) options:
  - cancel the order (allow the appeal)
  - amend the order (change the conditions)
  - keep the order as is (appeal dismissed)
  - continue the hearing at a later date (defer)

#### \*Non-Party Witnesses

Persons who are not parties to the appeal may be permitted to provide relevant evidence of factual matters within their personal knowledge to the Appeals Standing Committee. Non-party witnesses will be given an appropriate amount of time to present their information.

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.

The Appeals Standing Committee meetings begin at 10:00 a.m. and cases will be heard as they appear on the approved agenda.