

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed by 
Jacques Dubé, Chief Administrative Officer

DATE: March 14, 2022

SUBJECT: Property Based Requests and Fee for Service Report

ORIGIN

Staff Initiated - The current volume of access requests received under Part XX of the Municipal Government Act, wherein applicants are requesting property based information on “any and all outstanding work orders or violations of HRM bylaws, ordinance or minimum standards with respect to a real property”, has lead the Access & Privacy Office to review how these requests are managed and to seek a means to improve upon this service delivery.

LEGISLATIVE AUTHORITY

Municipal Government Act, 1998, c. 18 Part XX, clause 463 (2)(a)

463(2) Notwithstanding subsection (1), this Part does not apply to

(a) published material or material that is available for purchase by the public;

Halifax Regional Municipality Charter, 2008, c. 39, section 102

102 Subject to the approval of the Board for those services that are subject to the Public Utilities Act, the Council may, by by-law, prescribe charges for the provision of services for persons who use or benefit from the service, on a basis to be set out in the by-law.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. adopt By-law U-109, amending By-law U-100, the *User Charges By-law*, as set out in Attachment 1 to this report, and
2. direct the Municipal Clerk to delay publishing By-law U-109 until advised by the Chief Administrative Officer to proceed with publication.

BACKGROUND

Currently law firms and mortgage companies file access requests under the Freedom of Information and Protection of Privacy (FOIPOP) provisions of Part XX of the Municipal Government Act (MGA). The volume of these requests is substantial and significantly increases each year. In 2019/20, 672 requests were received and in 2020/21, 490 requests were received for “any and all outstanding work orders or violations of HRM bylaws, ordinance or minimum standards with respect to the real property known as: XXXXX, Halifax (PID XXXXX).” The reason for these requests is typically refinancing of the property or an impending sale of the property and the vast majority are commercial, industrial or large-scale residential properties.

When a request is received and the \$5 application fee paid, the Access & Privacy Office creates a file, logs the request in the tracking sheet, sends an email to applicable Business Unit’s (BU’s) requesting they conduct a search, wait for BU’s to respond as to the results of their search, draft and send a response letter to the applicant, close the file and enter information into the tracking sheet. The response provided by Access & Privacy is either “we were not able to locate any records relating to any active, open or outstanding work orders or violations in relation to the XXX property” or there “is an open investigation and access to the records is denied.” These requests involve a substantial amount of time to process under the provisions of the MGA.

DISCUSSION

To reduce red tape by streamlining and automating this process staff in the Access & Privacy Office have re-evaluated how this service could be delivered with improved efficiency to the client and the municipality, in line with current Performance Excellence initiatives.

It is proposed that the process be transitioned to a new on-line service to be created, outside of the formal FOIPOP process, which will be managed by the Access & Privacy Office. This service will add to and complement our current services for tax certificates and zoning confirmations which are provided on a cost recovery basis. This new service will be called “Property Information Inquiry” and will be featured on the halifax.ca site. It will become a service with a cost recovery, like the current requests for a tax certificate and a zoning confirmation letter. As with any user charge, it must be set out in by-law.

An automation/software tool will be implemented this spring in the Access & Privacy Office and will assist in the management, tracking, and fulfilment of formal access requests. It is intended that a new process – for the Property Information Inquiry – will be created and managed through this same software tool. When accessing this new service, the user will be directed to a page where an explanation will be provided on what this service can provide, they will be asked to create an account and then enter a civic address or a PID #, which Business Units they wish to have a search conducted in – Business Units will be listed with a brief description of what information will be searched. Once the BU has been selected, the user will be redirected to the Moneris checkout service for payment. Through the software, Business Units will then be notified of the request, provided with the civic address or PID # that is to be checked and upon completion of the search, a reply option to the Access & Privacy Office will be created with a yes or no response on whether the search produced results. Business Units will not be required to gather and provide any records associated with these requests. Once all selected Business Unit’s respond, an electronic yes or no response will be provided to the requestor.

It is proposed that the cost for this service will be \$150 with a 7 calendar day commitment for a response which is a significant improvement over the current 30 calendar day response time.

In accordance with Administrative Order, 2017-002-ADM Charter of Governing Principles for Regulation, a Regulatory impact Assessment (RIA) and a Business Impact Assessment (BIA) were completed.

The schedule for the implementation of the software is still being finalized but it is expected to go live between the 20th of June and the 4th of July. Once this date is finalized, the publication date can be set.

FINANCIAL IMPLICATIONS

Based on the average volume of property inquiry requests from 2019 to 2021, and assuming the volume of requests remain constant, revenue is projected to be approximately \$87,000 per year. Revenue collected for this service will continue to be allocated to operational account A722 – 5508 (Access & Privacy – Recovery External Parties).

RISK CONSIDERATION

No risk considerations were identified.

COMMUNITY ENGAGEMENT

An informal survey of several law firms who frequently use this service did not generate any concerns with the proposed change in process or the increased cost; a quicker response time was favourably received as deadlines associated with property sales or mortgage renewals (which are typically the reason for the inquiry) will be easier to meet.

ENVIRONMENTAL IMPLICATIONS

No environmental implications were identified.

ALTERNATIVES

1. That Halifax Regional Council defeat the staff recommendation to adopt By-law U-109 as set out in Attachment 1 to this report. The consequence of this is the status quo would be maintained with the capabilities of the Access & Privacy Office to meet their legislated timelines constrained.
2. That Halifax Regional Council amend the proposed By-law U-109. A supplementary report may be required to address any amendments.

ATTACHMENTS

Attachment 1 – Amending By-law U-109

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 by: Donna Boutilier, Solicitor & By-Law Coordinator 902.490.2331
Nancy Dempsey, Access & Privacy Officer 902.476.9987
Joshua Judah, Senior Solicitor 902.490.4226

REVISED – April 12, 2022

**HALIFAX REGIONAL MUNICIPALITY
BY-LAW NUMBER U-109
RESPECTING THE AMENDMENT OF BY-LAW U-100
RESPECTING USER CHARGES**

BE IT ENACTED by the Council of the Halifax Regional Municipality, under the authority of Section 102 of the *Halifax Regional Municipality Charter*, 2008 S.N.S. c. 39, as amended, that By-law U-100, *Respecting User Charges*, is amended as follows:

by adding attached Schedule 6, *Property Information Inquiry User Charges*, immediately after Schedule 5.

Done and passed by Council this ____ day of _____, 2022.

Mayor

Municipal Clerk

I, Iain MacLean, Municipal Clerk of the Halifax Regional Municipality, hereby certify that the above noted by-law was passed at a meeting of the Halifax Regional Council held on _____, 2022.

Iain MacLean, Municipal Clerk

Schedule 6

Property Information Inquiry User Charges

WHEREAS the Municipality receives enquires for information on a civic address or PID from authorized parties;

AND WHEREAS these enquiries for information are to confirm the existence of any and all outstanding work orders, violations or investigations of Halifax Regional Municipality by-laws, ordinance or minimum standards with respect to the civic address or PID;

AND WHEREAS the Municipality wishes to provide a positive or negative response to the inquiry;

BE IT THEREFORE ENACTED by the Council of the Halifax Regional Municipality as follows:

Interpretation

1. In this Schedule,

(a) “authorized party” includes:

- (i) a law firm,
- (ii) a mortgage company,
- (iii) a financial institution, or
- (iv) an owner;

(b) “civic address” means civic number, street name and General Service Area;

(c) “owner” includes as it refers to the owner of property

(i) a part owner, joint owner, tenant in common or joint tenant of the whole or any part of land or a building,

(ii) in the case of the absence or incapacity of the person having title to the land or building, a trustee, an executor, a guardian, an agent, a mortgagee in possession or a person having the care or control of the land or building,

(iii) a person who occupies shores, beaches or shoals, and

(iv) in the absence of proof to the contrary, the person assessed for the property;

(d) “PID” means property identification number.

Application

2. This Schedule applies to authorized parties who make an inquiry for information on outstanding work orders, violations or investigations under a by-law, ordinance or minimum standards associated with a civic address or PID.

3. (1) No person shall make an inquiry of the Municipality under this Schedule regarding any civic address or PID without first paying the user charge as set out in section 6.

(2) Notwithstanding subsection (1), this Schedule shall not apply to a request for information under By-law F-300, the *By-law Relating to Fees for the Provision of Taxation Information*.

Information Inquiry

4. A person shall submit an inquiry to the Municipality in a form as prescribed by the Municipality and shall pay the prescribed user charge as set out in section 6.

5. A response to an inquiry made under this Schedule shall be provided within seven (7) calendar days.

User Charge for a Property Information Inquiry

6. The user charge under this Schedule is \$150.00 per civic address or PID.