



P.O. Box 1749  
Halifax, Nova Scotia  
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**Item No. 12.2.1**  
**Appeals Standing Committee**  
**March 9, 2023**

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

Original Signed

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

**DATE:** February 27, 2023

**SUBJECT:** Order to Demolish – Case # 2023 000417, 11 Cleary Drive, Eastern Passage

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**ORIGIN**

Staff, pursuant to 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.

**RECOMMENDATION**

It is recommended that the Appeals Standing Committee:

Find the property to be dangerous or unsightly as per section 3(q) of the Charter and as per section 356 of the Charter, **orders demolition** of the main and accessory structures including but not limited to, the removal of all demolition debris, backfilling of any foundation or crawl space, and disconnecting any and all utility connections to the standard set by each respective utility service provider, so as to leave the property in a neat, tidy, environmentally compliant and safe condition within thirty (30) days after the Orders are posted in a conspicuous place upon the property or personally served upon the owner. Otherwise, the Municipality will exercise its rights as set forth under Part XV (15) of the Charter.

**BACKGROUND:**

There have been no previous dangerous or unsightly cases at the property.

The property is zoned R1 (single unit dwelling).

A review of the HRM database system shows no permits issued for the property.

A complaint was received by service request on January 6, 2023. The complainant stated the property was not maintained and was unsightly due to an overturned green bin with waste coming out of it, a couch on the lawn and other assorted debris.

HRM Fire Prevention staff submitted a complaint on January 13, 2023, which stated part of the structure where the fire occurred was unstable and there was garbage everywhere in the yard.

The Compliance Officer is bringing this case forward to the committee to request Demolition Orders for the main and accessory structures (Case # 2023 000417).

**CHRONOLOGY OF CASE ACTIVITIES:**

07-Jan-2023 The Compliance Officer conducted a site inspection at 11 Cleary Drive, Eastern Passage hereinafter referred to as “the Property” (attached as Appendix B). The Compliance Officer noted a large amount of debris in the yard and a deteriorated accessory structure. The Compliance Officer knocked at the door of the dwelling and received no answer.

The Compliance Officer posted a 60-day Notice of Violation (attached as Appendix C) for exterior maintenance to the accessory structure.

The Compliance Officer left a detailed voicemail for the property owner requesting a call back.

13-Jan-2023 The Compliance Officer received information from Fire Prevention advising that they responded to a structure fire at the property on Monday Jan. 9, 2023. Staff with Fire Prevention provided contact information for the representative for the property and advised that the main structure had significant fire damage to the ground floor. Fire Prevention staff also advised that when they spoke with the representative the following day, they advised that the structure had been vacant for some time, there was no power to the structure, there was also no insurance on the structure and neighbors suggested that squatters had been living at the property.

16-Jan-2023 The Compliance Officer conducted a site inspection and noted the violations remained, more debris was visible including discarded needles and an open well was found on the property.

The Compliance Officer contacted the property representative who advised that the property owner was in hospital. The Compliance Officer explained the violations at the property including immediate safety concerns and the remedy process should the violations remain. The property representative advised they were aware of the fire and that they plan on cleaning up the debris and would remedy immediate safety concerns today.

The Compliance Officer sent a text to the property representative including photos of the needles and open well.

The representative left a voicemail for the Compliance Officer advising that they removed the needles from the property.

17-Jan-2023 The Compliance Officer conducted a site inspection and noted the violations remained; however, the needles had been removed.

19-Jan-2023 The Compliance Officer left a phone message for the property representative requesting an update regarding the outstanding violations.

01-Feb-2023 The Compliance Officer conducted a site inspection and noted the violations remained. The main door of main dwelling was wide open and there was no evidence to suggest anyone had entered the dwelling recently. The Compliance Officer called out to confirm no one was in the dwelling before securing the door.

The Compliance Officer left a detailed phone message for the property representative requesting they attend the property to ensure the front door remains secured. The Compliance Officer also advised that the case would progress to the Appeals Standing Committee to request Demolition Orders for the structures.

The property representative contacted the Compliance Officer and advised that they would work on the debris removal, but they don't have a plan for the structures. The representative further advised that they had an interested buyer for the property however the property ownership issue was going forward to the courts. The representative said they would contact the Compliance Officer in two weeks to advise of the outcome in court and plan for the structures.

03-Feb-2023 The Compliance Officer conducted a site inspection and noted the violations remained.

07-Feb-2023 The Building Official submitted Structural Integrity Reports for the main structure (attached as Appendix D), and the accessory structure (attached as Appendix E).

The overall comment regarding the main structure is: "The single-story section of the building is not structurally sound and not habitable; it would not be cost effective to repair."

The overall comment regarding the accessory structure is: "The current state of the building is not structurally sound and not habitable; it would not be cost effective to repair."

The Compliance Officer contacted the property representative and advised them of details of the Structural Integrity reports. The Compliance Officer also advised that open access had been noted at the property. The representative advised they would have the structures secured.

08-Feb-2023 The Compliance Officer conducted a site inspection and noted open access to the structures had been remedied.

09-Feb-2023 The Compliance Officer received a phone message from the property owner's Power of Attorney who advised they recently walked the property and noticed the Order to Remedy for debris and fire damage. The Power of Attorney advised they would take immediate steps to rectify the violations including obtaining a demolition permit for the structures.

The Compliance Officer contacted the Power of Attorney and discussed the violations at the property included the Appeals Standing Committee process.

The Compliance Officer emailed their contact information to the Power of Attorney and requested they keep them advised of their plans and progress.

The Power of Attorney emailed the Compliance Officer and advised that they started the application process for a demolition permit.

13-Feb-2023 The Compliance Officer received an email from the Power of Attorney advising that they hired someone to demolish the structures and are waiting on demolition permits. The representative further advised that most of the debris was removed and the remaining debris would be removed when surrounding ice melts.

16-Feb-2023 The Compliance Officer emailed the Power of Attorney and advised they would present the case to the Appeals Standing Committee on March 8, 2023, however if the Power of Attorney received the demolition permit and the structures were demolished prior to the meeting the matter would not progress to the Committee.

21-Feb-2023 The Compliance Officer posted a Notice to Appear for the main structure and accessory structures (attached as Appendix F) at the property. A copy was also sent to the property owner through registered mail.

The Compliance Officer noted open access to the fire damaged main and deteriorated accessory structures, scattered debris throughout the property including discarded needles, and a well full of water and ice at surface level covered by a piece of plywood not secured to the well.

The Compliance Officer phoned the Power of Attorney and advised them of the open access to the main and accessory structures as well as the needles on the property. The Compliance Officer advised that these are safety issues that need to be addressed as soon as possible. The Compliance Officer further explained that if the Power of Attorney is not able to complete the work HRM would complete the immediate remedy and costs incurred would be charged to the property. The Power of Attorney advised that the long-term plan is to sell the property as is and that the property would be listed very soon.

27-Feb-2023 Building Standards advised they had not received an application for demolition permits for the property. The Compliance Officer followed up with the Power of Attorney to provide contact information for the Building Standards so they may assist with the demolition permit process.

The Power of Attorney provided photos showing the property has been clean up of needles and open access secured.

### **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.

### **RISK CONSIDERATIONS**

The risk considerations rate moderate as the buildings are not structurally sound and would present a risk to anyone who may enter.

**ENVIRONMENTAL IMPLICATIONS**

No environmental impact identified.

**ALTERNATIVES**

The state of the property suggests no viable alternative to the recommendation by Staff.

**ATTACHMENTS**

- Appendix A: Copy of the 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 January 7, 2023
- Appendix D: Copy of the Building Official's Report dated January 3, 2023
- Appendix E: Copy of the Building Official's Report dated January 3, 2023
- Appendix F: Copy of the Notice to Appear dated February 21, 2023

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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: Vicki Aguinaga, Compliance Officer II, By-law Standards, 902-717-3903

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## Appendix A

### Halifax Regional Municipality Charter (“HRM Charter) Subsection 355, 356 and 3(q)

HRM Charter, subsection 355 (1) (2) 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.
- (2) The Council may, by policy, delegate its authority pursuant to this Part, or such of its authority as is not delegated to the Administrator, to a community council or to a standing committee, for all or part of the Municipality.

HRM Charter, subsections 356(1)(3), 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.
- (3) Where it is proposed to order demolition, before the order is made not less than seven days notice must be given to the owner specifying the date, time and place of the meeting at which the order will be considered and that the owner will be given the opportunity to appear and be heard before any order is made.

HRM Charter, subsection 3(q) as follows:

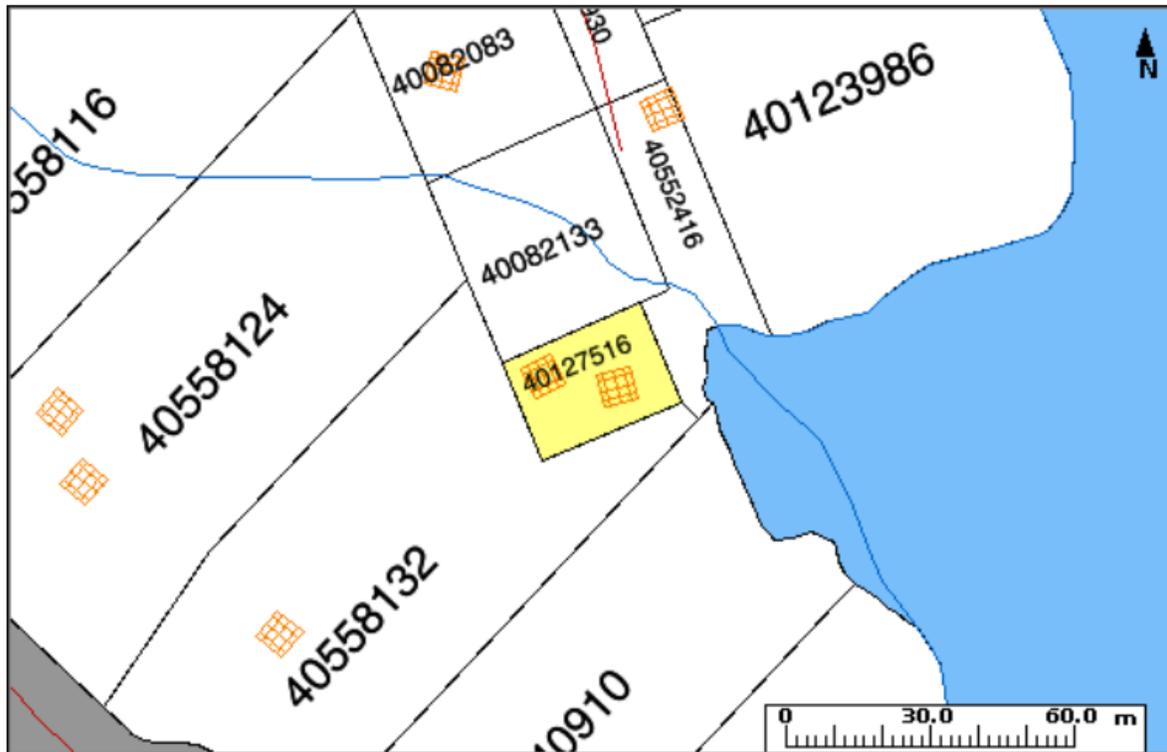
- (q) “dangerous or unsightly” means partly demolished, decayed, deteriorated or in a state of disrepair so as to be dangerous, unsightly or unhealthy, and includes property containing
- (i) ashes, junk, cleanings of yards or other rubbish or refuse or a derelict vehicle, vessel, item of equipment or 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 13, 2023 11:32:38 AM



PID:	40127516	Owner:	MARGARET A ROGERS	AAN:	00074462
County:	HALIFAX COUNTY	Address:	11 CLEARY DRIVE EASTERN PASSAGE	Value:	\$221,600 (2023 RESIDENTIAL TAXABLE)
LR Status:	NOT 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

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### Notice of Violation

Notice Served Upon: \_\_\_\_\_

Address: 11 Cleary Drive, Eastern Passage

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

- HRM By-law A-700 Animals
- HRM By-law C-300 Civic Addressing
- HRM By-law C-501 Vending
- HRM Charter, Part XV Respecting Dangerous or Unsightly Premises
- HRM By-law N-300 Nuisances
- HRM By-law S-300 Streets
- HRM By-law S-600 Solid Waste
- HRM By-law S-801 Temporary Signs
- HRM By-law S-1000 Sidewalk Cafes
- HRM By-law T-1000 Taxi & Limousine
- Other: \_\_\_\_\_

Details of violation(s):  
A lack of maintenance to the accessory structure resulting in faded and or peeling paint and rotten wooden components including but not limited to exterior walls, soffit and fascia, windows and doors, window and door trim, and other components.

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

Repair or replace all rotten wooden components, and scrape/ painting the exterior of accessory structure including but not limited to exterior walls, soffit and fascia, windows and doors and other components.

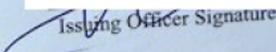
Notice of Re-inspection:

A re-inspection will be performed on 8/3/23 <sup>(60 DAYS)</sup> 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.

Vicki Aguiraga  
Issuing Officer

902-717-3903  
Issuing Officer Phone Number

Original signed 

Issuing Officer Signature 

7/1/23  
Date (dd/mm/yy)

1230  
Time (hh/mm)

CF-2023-000417  
Case Number

Pursuant to Part XV of the Halifax Regional Municipality Charter  
As requested by the By-Law Compliance Officer, an inspection of the property located at:

Property Address	PID	Inspection Date
11 Cleary Dr, Eastern Passage, Nova Scotia, ( Main Dwelling )	40127516	02/03/2023

Building Feature	Condition Relative to Habitability and Structural Integrity
Main Structure	<ul style="list-style-type: none"> <li>- House is located on left hand side of the property.</li> <li>- The building is a 2 storey with a 1 storey addition to the West; it is of wood frame construction in varying stages of decay.</li> <li>- The building was involved in a fire which appears to have started on the West side of the home.</li> <li>- The extent of the damage caused by the fire and ingress of the weather elements could not be determined from the exterior.</li> <li>- The structure is open to the elements and wildlife.</li> </ul>
Foundation	<ul style="list-style-type: none"> <li>- Concrete foundation is in fair condition.</li> </ul>
Heating Appliances	<ul style="list-style-type: none"> <li>- Could not be fully determined</li> </ul>
Chimney	<ul style="list-style-type: none"> <li>- Metal chimney has fallen over on the West side of the home.</li> <li>- Masonry brick chimney is deteriorated on the East side of the home.</li> </ul>
Roof	<ul style="list-style-type: none"> <li>- The fire has structurally compromised the roof trusses on the right side of the home.</li> </ul>
Building Services	<ul style="list-style-type: none"> <li>- Electric meter removed, lines still in place.</li> <li>- Water/sewer could not be determined.</li> </ul>

Public Safety Considerations
<ul style="list-style-type: none"> <li>- Entry into structure is not secured, recommend access to building be secured immediately.</li> </ul>

Comments Regarding Repair or Demolition
<ul style="list-style-type: none"> <li>- The single-story section of the building is not structurally sound and not habitable, it would not be cost effective to repair.</li> </ul>

Dane Ordway	Original signed	Original signed
Building Official (please print)		Supervisor's Initials

Form Jan 2016

Pursuant to Part XV of the Halifax Regional Municipality Charter  
As requested by the By-Law Compliance Officer, an inspection of the property located at:

Property Address	PID	Inspection Date
11 Cleary Dr, Eastern Passage, Nova Scotia ( Accessory Structure )	40127516	02/03/2023

Building Feature	Condition Relative to Habitability and Structural Integrity
Main Structure	<ul style="list-style-type: none"> <li>- Single storey wood frame accessory building.</li> <li>- A downed tree has caused structural damage to the roof and the rest of the structure.</li> <li>- All the windows are broken or missing.</li> <li>- The ceiling has collapsed.</li> <li>- The exterior walls of the structure are rotten and structurally unstable.</li> <li>- The structure is open to wildlife and the elements through the roof and exterior walls and windows and doors.</li> </ul>
Foundation	<ul style="list-style-type: none"> <li>- Undetermined.</li> </ul>
Heating Appliances	<ul style="list-style-type: none"> <li>- Undetermined.</li> </ul>
Chimney	<ul style="list-style-type: none"> <li>- Exterior portion of masonry chimney seems to be in a state of disrepair.</li> </ul>
Roof	<ul style="list-style-type: none"> <li>- The roof of the garage is rotten.</li> </ul>
Building Services	<ul style="list-style-type: none"> <li>- NA</li> </ul>

<b>Public Safety Considerations</b>
<ul style="list-style-type: none"> <li>- Entrance to the building needs to be secured immediately as it could collapse at any time.</li> </ul>

<b>Comments Regarding Repair or Demolition</b>
<ul style="list-style-type: none"> <li>- The current state of the building is not structurally sound and not habitable, it would not be cost effective to repair.</li> </ul>

Dane Ordway	<b>Original signed</b>	<b>Original signed</b>
Building Official (please print)	Sign	Supervisor's Initials

**NOTICE TO APPEAR**

**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:** 11 Cleary Drive, Eastern Passage, Nova Scotia;  
Case #2023 000417;  
Hereinafter referred to as the “Property”

**-and-**

**IN THE MATTER OF:** Deteriorated main and accessory structures  
Hereinafter referred to as the “Building”

**TO: MARGARET A ROGERS**

**WHEREAS** you are the owner of the Property;

**AND WHEREAS** situated on the Property are the Buildings identified as dangerous or unsightly as per section 3(q) of the Charter;

**TAKE NOTICE** that you are hereby requested to appear before the Appeals Standing Committee (“Committee”) at 10:00am on March 9, 2023 in the Council Chambers, 3rd Floor, City Hall, 1841 Argyle Street, Halifax, Nova Scotia, a copy of the report can be found on Halifax.ca;

At which time the Committee will consider the following application:

**APPLICATION by Staff for Orders pursuant to section 356 of the Charter, to require demolition of the main and accessory structures, removal of all demolition debris, backfilling of any basement or crawl space and the disconnection of any and all utility connections to the standard set by the service provider within thirty (30) days of the date of the Order.**

**SECTION 356(3) OF THE CHARTER** provides the opportunity for the owner of the Property to appear and be heard by the Committee.

**DATED** at Halifax, Nova Scotia this 21st of February 2023

**Original signed**

Vicki Aguinaga  
Compliance Officer  
902.717.3903

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Scott Hill  
Administrator  
Halifax Regional Municipality