



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

Item No. 12.1.4
Appeals Standing Committee
May 11, 2023

TO: Chair and Members of Appeals Standing Committee

Original Signed

SUBMITTED BY: _____
Andrea MacDonald, Acting Director, Compliance

DATE: April 24, 2023

SUBJECT: Appeal Report – Case 2023 001942, 7 Parkstone Road, Dartmouth

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 Orders of the Administrator and thereby deny the appeal.

BACKGROUND:

There has been one previous dangerous or unsightly case at the property closed with owner compliance.

The property is zoned ER-2 (established residential).

A complaint was received by service request on January 27, 2023. The complainant reported bags of garbage all over the backyard and deck, as well as broken lawn furniture, a rotten canoe, and a bathtub on the property.

There have been no subsequent complaints regarding the property.

This report will focus on the appeal dated April 12, 2023, by the property owner of the Order to Remedy for the debris.

CHRONOLOGY OF CASE ACTIVITIES:

28-Jan-2023 The Compliance Officer conducted a site inspection at 7 Parkstone Road, Dartmouth hereinafter referred to as “the property” (attached as Appendix B).

The Compliance Officer knocked on door and received no answer. The Officer walked the property and saw the property owner in the backyard. The Compliance Officer explained the complaint and the debris violations at the property that must be removed including scrap wood, metal and plastic, bagged leaves, a tv, a washing machine, other disused household items, and loose litter, and provided a time frame for the work to be completed. The property owner indicated they would work to bring the property into compliance. The Compliance Officer left a 7-day Notice of Violation for the debris (attached as Appendix C) in the mail slot as requested by the property owner.

24-Mar-2023 The Compliance Officer conducted a site inspection and noted there was no change to the condition of property.

28-Mar-2023 The Compliance Officer conducted a site inspection and noted there was no change to the condition of property.

06-Apr-2023 The Compliance Officer conducted a site inspection and noted there was no change to the condition of property. The Officer knocked on the door, received no answer and noted a vehicle parked in the driveway.

The Compliance Officer posted a 7-day Order to Remedy the debris violations (attached as Appendix D) at the property. A copy was sent to the property owner through registered mail.

The Compliance Officer phoned the property owner and advised that an Order to Remedy was posted at the property and a copy would be sent through registered mail. The property owner stated that the items were not a danger. The Compliance Officer clarified that the items listed on the Order were covered by the dangerous or unsightly legislation and specifically the unsightly category. The Compliance Officer advised the property owner that the Order to Remedy provided 7 days to bring the property into compliance and the file would progress to remedy if compliance was not achieved. The property owner advised that the washing machine was worth \$700.

The Compliance Officer advised the property owner that appliances were not permitted to be stored outside and that if they wished to keep it, the item needed to be stored properly. The property owner raised other concerns and the Officer advised the property owner they could file an appeal if they wished to dispute items listed on the Order. The property owner advised the Compliance Officer that they would review the Order and appeal process.

- 12-Apr-2023 The property owner submitted a Notice of Appeal (attached as Appendix E) to the Municipal Clerk's Office.
- 13-Apr-2023 The Municipal Clerk's Office sent the property owner a letter advising the appeal would be heard at the May 11, 2023, Appeals Standing Committee meeting (attached as Appendix F).
- 18-Apr-2023 The property owner submitted a service request noting that they wished to follow up with the Compliance Officer to advise that they were cleaning the property and would complete the work by May 9, 2023.
- 19-Apr-2023 The Compliance Officer contacted the property owner and advised they were agreeable to the extension to May 09, 2023. The Compliance Officer advised they would reinspect the property on May 09, 2023 to determine if the property was in compliance.

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 January 28, 2023
Appendix D: Copy of the Order to Remedy dated April 6, 2023
Appendix E: Copy of the Notice of Appeal dated April 12, 2023
Appendix F: Copy of the letter from the Clerk's Office dated April 13, 2023

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 For: Allen Byng, Compliance Officer II, By-law Standards, 902.225.9197

Original Signed

Report Approved by: _____
Tanya Phillips, Program Manager, By-law Standards, Compliance 902.490.4491

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:

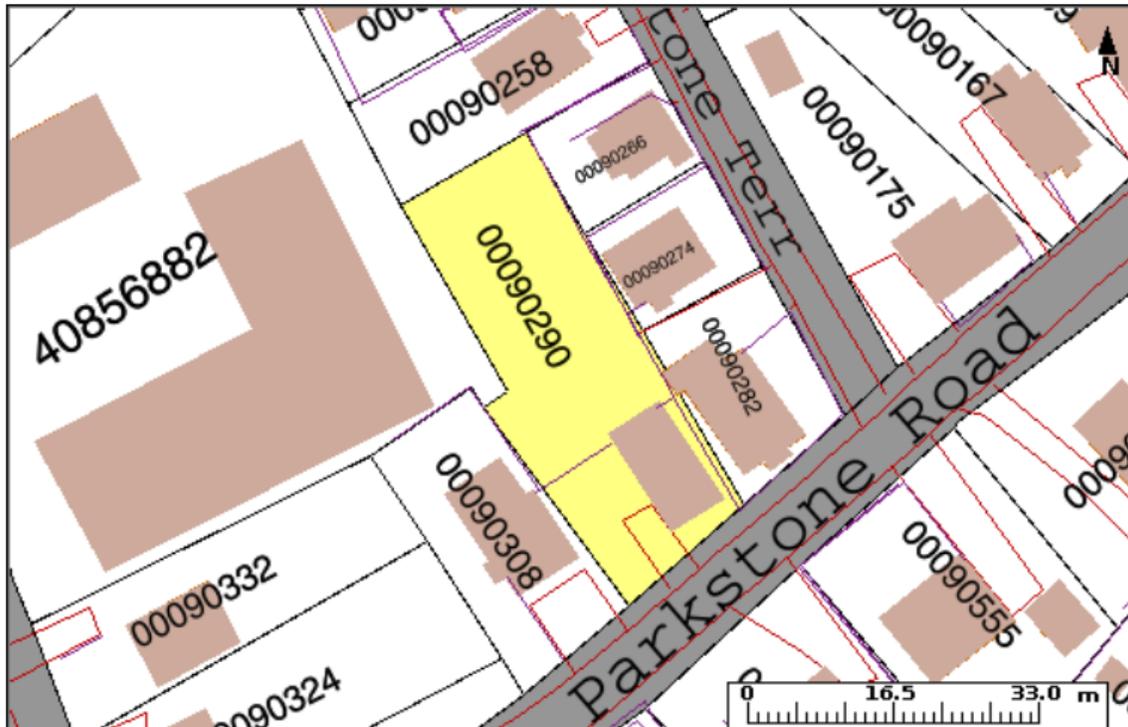
- (q) "dangerous or unsightly" means partly demolished, decayed, deteriorated or in a state of disrepair so as to be dangerous, unsightly or unhealthy, and includes property containing
- (i) ashes, junk, cleanings of yards or other rubbish or refuse or a derelict vehicle, vessel, item of equipment or 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: Apr 17, 2023 1:34:56 PM



PID:	00090290	Owner:	VICKI MARIE BOWER	AAN:	00437409
County:	HALIFAX COUNTY	Address:	7 PARKSTONE ROAD DARTMOUTH	Value:	\$191,200 (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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HALIFAX

Buildings and Compliance

Notice of Violation

Notice Served Upon: Vicki Bowes
Address: 7 Basketon Road

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):
An accumulation of debris including but not limited to scrap wood, scrap metal, scrap plastic, bagged leaves, ty, washes, disused house hold items, loose litters, and any other scattered debris.

Violation(s) to be rectified as per the following:
Please remove the above violations

Notice of Re-inspection:

A re-inspection will be performed on February 4, 2023 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.

Kevin Bouriga
Issuing Officer

28/01/2023
Date (dd/mm/yy)

902-471-2051
Issuing Officer Phone Number

15:08
Time (hh/mm)

Original signed

CF-2023-001942
Case Number

Issuing Officer Signature



**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 7 PARKSTONE RD, DARTMOUTH, NS B3A4J1;
Case # CF-2023-001942;
Hereinafter referred to as the "Property"

TO: VICKI MARIE BOWER PERSONAL REPRESENTATIVE

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

AND WHEREAS located on the Property is an unsightly or dangerous condition due to an accumulation of debris including but not limited to scrap wood, scrap metal, scrap plastic, bagged leaves, TV, washing machine, disused household items, loose litter and other scattered debris, 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 accumulation of debris including but not limited to scrap wood, scrap metal, scrap plastic, bagged leaves, TV, washing machine, disused household items, loose litter and other scattered debris, 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 6th April 2023.

Original signed

ALLEN BYNG
COMPLIANCE OFFICER
Phone: 902-225-9197

SCOTT HILL
Administrator
Halifax Regional Municipality

Appendix E

Fax

Cover sheet

VALID

Date APRIL 12, 2023

Number of pages (including cover sheet) 13

To HRM

Phone (902) 490-420

Fax (902) 490-4208

CC _____

From VICKI M. BOWLER

Phone _____

Fax () _____

Remarks Urgent For you review Reply ASAP Please comment

NOTICE OF APPEAL

Could I have a review written upon
an Access to Information and Privacy?
I have attached notes about my
neighbors, that are far more dangerous
than I am. Thank you.

Original signed _____

For store use only

Local transmission - SKU: 381623

Long distance transmission - SKU: 475809

International transmission - SKU: 381672

Incoming fax - SKU: 381663



Appendix F



**REGISTERED
DOMESTIC**

**RECOMMANDÉ
RÉGIME INTÉRIEUR**



CUSTOMER RECEIPT

REÇU DU CLIENT

April 13, 2023

REGISTERED MAIL

Vicki Marie Bower

To		Destinataire	
Name		Nom	
Address		Adresse	
City / Prov. / Postal Code		Ville / Prov. / Code postal	
Declared Value		Valeur déclarée	
Value		\$	

33-086-584 (17-12)

FOR DELIVERY CONFIRMATION	CONFIRMATION DE LA LIVRAISON
canadapost.ca	postescanada.ca
1 888 550-6333	
CPC Tracking Number	Numéro de repérage de la SCP

Re: Case CF-2023-001942, Property located at 7 Parkstone Road, Dartmouth

This is to advise that your appeal of the Order to Remedy issued April 6, 2023 will be heard by the Appeals Standing Committee on **Thursday, May 11, 2023**. The hearing will be held in the Council Chamber, 3rd Floor, City Hall, 1841 Argyle Street, Halifax. Please arrive for 10:00 a.m. but note that there may be other cases heard before yours on the agenda.

The staff report for this matter will be posted online to the Appeals Standing Committee web page at www.halifax.ca by end of day Friday, May 5, 2023. 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. 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 902.223.1046.

Sincerely,
Original signed

Krista Vining
Acting Deputy Clerk
Office of the Municipal Clerk

cc: Tanya Phillips, Manager, By-law Standards
Scott Hill, Regional Coordinator By-law
Laurie Lauder, Adjudication Clerk
Allen Byng, Compliance Officer II

Enclosure: Order of Proceedings for Appeals Standing Committee

HALIFAX

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

halifax.ca

Appendix F

Order of Proceedings for Appeals Standing Committee

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

- The Chair will ask the Appellant (property owner) 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 their 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.