



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

Item No. 12.1.1
Appeals Standing Committee
April 14, 2022

TO: Chair and Members of Appeals Standing Committee

SUBMITTED BY: Original Signed

Andrea MacDonald, Acting Director, Buildings and Compliance

DATE: March 31, 2022

SUBJECT: Appeal Report – Cases 358785 and 366307, 923 Highway 7, Westphal

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 have been eight previous dangerous or unsightly cases at the property; six have been closed with owner compliance and 2 with HRM completing remedies.

The property is zoned C-4 (Highway Commercial).

A complaint was received by service request on July 4, 2021. The complainant stated that the side of a building was spray painted and there were abandoned vehicles on the property.

There has been one subsequent complaint received by service request on August 18, 2021. The complainant stated that the property was vacant and uncared for, there was vulgar graffiti, vandalism, old, abandoned vehicles, junk, and garbage everywhere.

This report will focus on the appeal dated December 22, 2021 by the property owner of the Orders to Remedy for graffiti (case #358785) and debris (case #366307).

CHRONOLOGY OF CASE ACTIVITIES:

07-Jul-2021 The Compliance Officer conducted a site inspection at 923 Highway 7, Westphal hereinafter referred to as “the property” (attached as Appendix B).

The Compliance Officer noted graffiti all over the exterior of a structure on the property. The Compliance Officer posted a 7-day Notice of Violation (attached as Appendix C) at the property.

13-Jul-2021 The Compliance Officer received a phone call from the property owner who acknowledged that they just received the Notice of Violation. The property owner advised the Compliance Officer that power was not connected at the property, they use the property to store equipment and that they were at the property almost daily. The property owner further advised the Compliance Officer that they would immediately install security lighting to deter future graffiti. The property owner requested time to complete the security lighting and then they would remove the graffiti. The Compliance Officer provided the property owner a two-week extension to complete the work.

12-Aug-2021 The Compliance Officer conducted a site inspection and noted the violation remained.

The Compliance Officer phoned the property owner and requested an update. The property owner advised the Compliance Officer that they were waiting on a permit from Nova Scotia Power to get electricity installed to the building. The property owner disclosed that more graffiti and damage to vehicles had occurred at the property and that police were involved. The Compliance Officer requested that the property owner contact them when they received the permit from Nova Scotia Power.

- 16-Oct-2021 The Compliance Officer phoned the property owner and requested an update. The property owner advised the Compliance Officer that they received the permit for electrical installation on October 15, 2021. The property owner further advised that after the electrical installations were complete, they would remove the graffiti. The property owner said they had someone attempt to spray wash the graffiti however it didn't work. The Compliance Officer advised that they would check to see if HRM had any graffiti removal kits that they could provide to the owner.
- 22-Oct-2021 The Compliance Officer contacted the property owner and confirmed that HRM could provide two graffiti removal kits and agreed to drop them off to the property owner.
- The Compliance Officer delivered the graffiti removal kits and the property owner confirmed the work would be completed by November 24, 2021.
- 16-Nov-2021 The Compliance Officer received a voice message from the property owner requesting a return call.
- The Compliance Officer phoned the property owner who advised that they tried to use the graffiti removal kits provided by the Compliance Officer but were unsuccessful. The property owner further advised that they had been in contact with other individuals to try and remove the violation. The owner stated they would update the Compliance Officer before November 24, 2021.
- 27-Nov-2021 The Compliance Officer received a voice message from the property owner advising that they are going away.
- 08-Dec-2021 The Compliance Officer conducted a site inspection and noted the violation remained.
- 09-Dec-2021 The Compliance Officer phoned the property owner and received no answer and was not able to leave a voice message as the mailbox was full.
- The Compliance Officer received a phone call from the property owner. The property owner advised that they were away on vacation until March and couldn't paint over the graffiti in the winter. The Compliance Officer advised the property owner that a 7-day Order to Remedy would be issued. The property owner explained their attempts to remove the graffiti and stated that their lawyer would contest the Order to Remedy. The Compliance Officer explained the appeal process so that the property owner was aware of their options. The property owner requested that the Compliance Officer send them a copy of the Order to Remedy through email if issued.
- 12-Dec-2021 The Compliance Officer conducted a site inspection and noted the graffiti violation remained. The Compliance Officer also noted a debris violation including blue plastic bags, clear plastic bags, black garbage bags, discarded wood and gyprock and other scattered debris. The Compliance Officer opened an additional case to manage the debris violation.
- 16-Dec-2021 The Compliance Officer conducted a site inspection and noted the violations remained. The Compliance Officer posted two 7-day Orders to Remedy for graffiti and debris violations (attached as Appendix D and E) at the property.

The Compliance Officer sent copies of the Orders to the property owner through email and left a detailed voice message for the property owner explaining the Orders and work required to bring the property into compliance.

- 17-Dec-2021 The Compliance Officer sent copies of the Orders to the property through registered mail.
- 22-Dec-2021 The property owner submitted a Notice of Appeal (attached as Appendix F) to the Municipal Clerk's Office.
- 11-Jan-2022 The Municipal Clerk's Office sent the property owner a letter dated January 10, 2022 advising that the appeal would be heard at the April 14, 2022 Appeals Standing Committee meeting (attached as Appendix G).
- 12-Jan-2022 The Clerk's Office sent an email to the property owner including a copy of the letter dated January 10, 2022 advising of the April 14, 2022 appeal hearing date.
- 04-Mar-2022 The Clerk's Office sent an email to the property owner confirming the April 14, 2022 appeal hearing date and the lifting of COVID requirements.
- 06-Mar-2022 The property owner emailed the Clerk's Office acknowledging the April 14, 2022 appeal hearing date and confirming they would be in attendance.

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

There are no significant risks associated with the recommendations in this report. The risk consideration rates low.

ENVIRONMENTAL IMPLICATIONS

No environmental impacts identified.

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.

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 case 358785 dated July 7, 2021
Appendix D: Copy of the Order to Remedy case 358785 dated December 16, 2021
Appendix E: Copy of the Order to Remedy case 366307 dated December 16, 2021
Appendix F: Copy of the Notice of Appeal dated December 22, 2021

Appendix G: Copy of the letter from the Clerk's Office dated January 10, 2022

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: Steven Levy, Compliance Officer II, By-law Standards, 782.640.8617

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;

Property Online Map

Date: Mar 24, 2022 2:07:48 PM



| | | |
|-------------------------------------|--|---|
| PID: 40380669 | Owner: MEDCO PROPERTIES INC. | AAN: 06097022 |
| County: HALIFAX COUNTY | | Value: \$165,700 (2022 COMMERCIAL TAXABLE) |
| LR Status: LAND REGISTRATION | Address: 923 HIGHWAY 7 WESTPHAL | |

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: Name Cold Service Station
 or address 923 Hwy # 7, Westphal

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

- | | |
|---|---|
| <input type="checkbox"/> HRM By-law A-300 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 Unsightly 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):

Graffiti on exterior walls of building.

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

Remove / paint over.

Notice of Re-inspection:

A re-inspection will be performed on July 14/2021 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.

K O'Neill

07/09/21

Issuing Officer
902-293-1406

Date (dd/mm/yy)
1328

Issuing Officer Phone Number
Original signed

Time (hh/mm)
358785

Issuing Officer Signature

Case Number



**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 923 HIGHWAY 7 , WESTPHAL, NS,
[REDACTED] Case # 358785
Hereinafter referred to as the "Property"

TO: MEDCO PROPERTIES INC
[REDACTED]

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

AND WHEREAS located on the Property is an unsightly or dangerous condition due to graffiti on the exterior walls of the structures, a white Chevrolet box truck, a semi-trailer, and a shipping container, 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 or painting over the graffiti on the exterior walls of the structures, the white Chevrolet box truck, the semi-trailer, and the shipping container, 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 16th of December, 2021 AD.

Original signed

STEVEN LEVY
COMPLIANCE OFFICER
782 640 8617

SCOTT HILL
Administrator
Halifax Regional Municipality

HALIFAX

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 923 HIGHWAY 7, WESTPHAL, NS,
[REDACTED] [REDACTED] Case # 366307
Hereinafter referred to as the "Property"

TO: MEDCO PROPERTIES INC
[REDACTED]

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; bagged waste, bagged recyclables, discarded wood, discarded gyprock, broken cabinets and other scattered debris and litter, 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; bagged waste, bagged recyclables, discarded wood, discarded gyprock, broken cabinets and other scattered debris and litter, 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 16th of December, 2021 AD.

STEVEN LEVY
COMPLIANCE OFFICER
782 640 8617

Original signed
SCOTT HILL
Administrator
Halifax Regional Municipality

From: [REDACTED]
To: [Levy, Steven](#)
Cc: [Collett, Cathy](#); [Vining, Krista](#); [Phillips, Tanya](#)
Subject: [External Email] Case # 358785 and Case # 366307
Date: Wednesday, December 22, 2021 3:19:52 PM

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

Good day everyone and Merry Christmas to all.

I am presently [REDACTED], due back home on the end of March 2022, I wish to appeal both cases and have no way to fax my request, I am hoping this letter can serve as a request to appeal said cases and hoping you may be able to see to it it reaches the right desk.

With regards to the "Discarded Wood" mentioned on Case # 366307, it was no more than kindling left for a friend to pick up which has been picked up and the white melamine panels referred to as "Broken Cabinets" has been relocated on the property to be out of sight. Apparently someone disposed of a load of Drywall at the back of the property behind the semi trailer which can not be seen from the road and a few bags of recyclables has been put inside the glass room located at the front of the property however, said bags can not be seen from the road.

Not sure there is anything on the property which can be considered dangerous and has to be dealt with promptly but if so please let me know and I'll see to it it gets taken care of immediately once I have a specific list.

Best of the season to you and yours,
-Edgard Hoyeck.

Appendix G

January 10, 2022

REGISTERED MAIL & EMAIL

Medco Properties Inc.
c/o Edgard Hoyeck

A Canada Post Registered Domestic Mail Receipt. The form is bilingual, with English on the left and French on the right. It includes fields for recipient name and address, declared value, and tracking information. A large red 'R' logo is in the top right corner. The bottom left corner features the Canada Post logo and the number 33-086-584 (17-12).

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

Re: Cases 358785 and 366307, Property located at 923 Highway 7, Westphal

This is to advise that your appeal will be heard on **Thursday, April 14, 2022 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 902.223.1046 or viningk@halifax.ca by 4:30pm on Tuesday, April 12, 2022 (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 902.223.1046 or viningk@halifax.ca.

Sincerely,

Original signed

for Krista Vining
Legislative Assistant
Office of the Municipal Clerk

cc: Tanya Phillips, Manager, By-law Standards
Scott Hill, Regional Coordinator By-law

HALIFAX

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

halifax.ca

Appendix G

Natalie Matheson, Support Services Supervisor, Municipal Compliance
Laurie Lauder, Adjudication Clerk
Steven Levy, Compliance Officer II

Encl. Order of Proceedings for Appeals Standing Committee

Appendix G

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.

Attending In-Person Meetings

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>

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.