



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

Item No. 12.1.1
Appeals Standing Committee
September 7, 2023

TO: Chair and Members of Appeals Standing Committee

SUBMITTED BY: - Original Signed -
Andrea MacDonald, Acting Director, Compliance

DATE: August 29, 2023

SUBJECT: Appeal Report – Case 2023 013060, 51 Winchester Avenue, Halifax

ORIGIN

Appeal of 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 two previous dangerous or unsightly cases at the property. One case was closed with owner compliance. There is a pending demolition order for the accessory structure which was issued by the Appeals Standing Committee on June 9, 2022. During the contractor site meeting on May 12, 2023, staff noted 3 derelict vehicles on the property which posed an obstruction to the demolition work being carried out.

The property is zoned R-1 (single family dwelling).

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

There have been no subsequent complaints regarding the property.

This report will focus on the appeal dated June 28, 2023, by the property owner of the Orders to Remedy for the derelict vehicles.

CHRONOLOGY OF CASE ACTIVITIES:

16-Jun-2023 The Compliance Officer conducted a site inspection at 51 Winchester Avenue, Halifax hereinafter referred to as “the property” (attached as Appendix B).

The Compliance Officer noted that the 3 derelict vehicles remained on the property. The derelict vehicles included a red Toyota sunk into the ground, a black Kia with no plate and expired MVI, and an old, rusted, Chevrolet.

21-Jun-2023 The Compliance Officer conducted a site inspection and noted the derelict vehicles remained. The Compliance Officer posted a 7-day Order to Remedy the derelict vehicles (attached as Appendix C) at the property. Copies were also sent to the property owner through email and registered mail.

28-Jun-2023 The property owner submitted a Notice of Appeal (attached as Appendix D) to the Municipal Clerk’s Office.

29-Jun-2023 The Municipal Clerk’s Office sent the property owner a letter advising the appeal was rescheduled to the September 7, 2023, 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.

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 Order to Remedy derelict vehicles dated June 21, 2023
- Appendix D: Copy of the Notice of Appeal dated June 28, 2023
- Appendix E: Copy of the letter from the Clerk's Office dated June 29, 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: Thomas Murdoch, Compliance Officer II, By-law Standards, 902.943.9213

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:

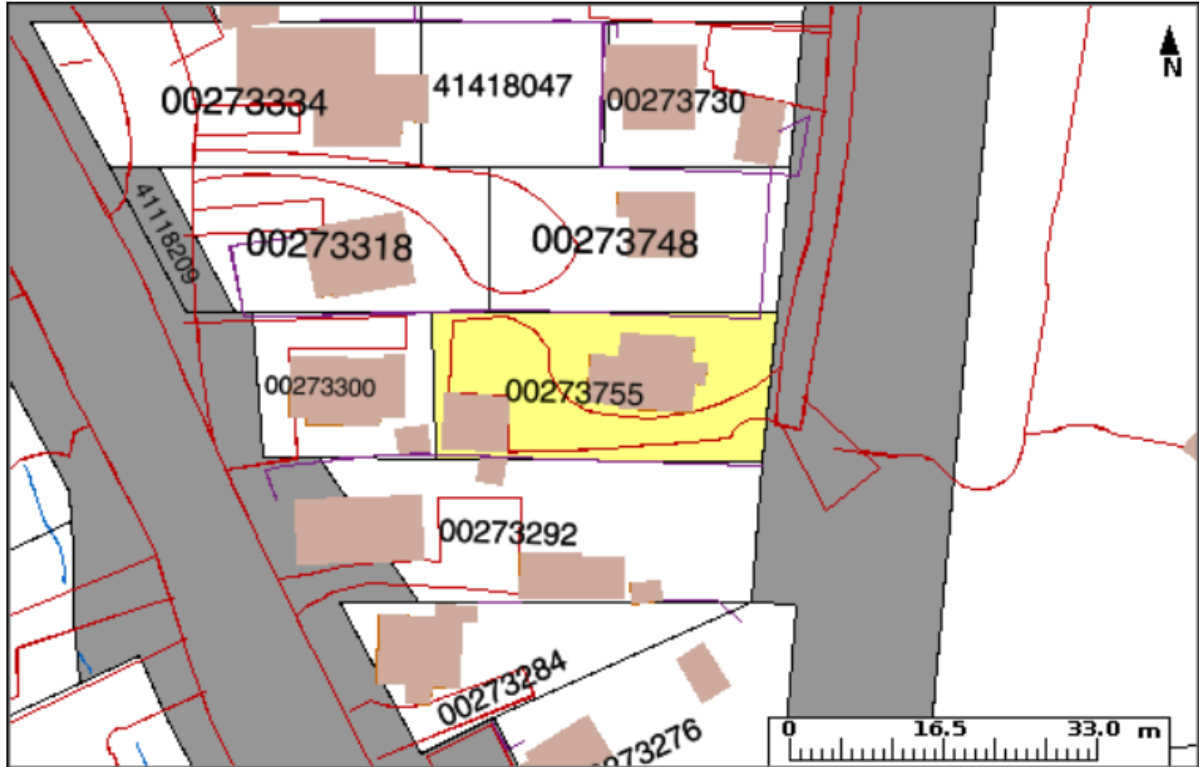
- (q) "dangerous or unsightly" means partly demolished, decayed, deteriorated or in a state of disrepair so as to be dangerous, unsightly or unhealthy, and includes property containing
- (i) ashes, junk, cleanings of yards or other rubbish or refuse or a derelict vehicle, vessel, item of equipment or 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: Jul 13, 2023 12:16:11 PM



PID:	00273755	Owner:	IRIS MARIE ALGUIRE	AAN:	00125563
County:	HALIFAX COUNTY		TODD EDWARD ALGUIRE	Value:	\$241,400 (2023 RESIDENTIAL TAXABLE)
LR Status:	LAND REGISTRATION	Address:	51 WINCHESTER AVENUE 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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Appendix C



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 51 WINCHESTER AVE, HALIFAX, NS B3P2C9;
[REDACTED]
Case # CF-2023-013060;
Hereinafter referred to as the "Property"

TO: IRIS MARIE ALGUIRE
TODD EDWARD ALGUIRE
[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 black Chevrolet, a black Kia Rio, and a red Toyota Yaris have been deemed to be derelict as they appear to be disused or abandoned by reason of their age, appearance, mechanical condition or lack of license plate 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 repairing or removing the black Chevrolet, the black Kia Rio, and the red Toyota Yaris, 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 21st day of June 2023.

Original signed

THOMAS MURDOCH
COMPLIANCE OFFICER
Phone: 902-943-9213

SCOTT HILL
Administrator
Halifax Regional Municipality

Appendix D

VALID

HALIFAX

NOTICE OF APPEAL REGARDING AN ORDER TO REMEDY DANGEROUS OR UNSIGHTLY PREMISES

IN THE MATTER OF: Property located at 51 WINCHESTER AVE, HALIFAX, NS, B3P2C9 Case # CF-2023-013060 PID # Tax #

I TODD ALGUIRE wish to file this Written Notice of Appeal in relation to the Order I received dated the 21 day of JUNE, 2023 from the Compliance Officer respecting the above noted Property.

The reason for appeal is:

THE THREE CARS PARKED IN MY DRIVEWAY, A 2009 TOYOTA YARIS, 2014 KIA RIO, AND 1951 CHEVY ARE NOT DERELICT VEHICLES. THE YARIS I WILL REPAIR THIS SUMMER, THE RIO A TRADE-IN, THE CHEVY WILL BE RESTORED.

*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.

Submitted by:

- Property Owner(s) Guardian, Trustee, or Power of Attorney* Agent of Property Owner(s)* Other, Please Specify* written authorization of property owner required

DATED at 9:30 AM 7.A. HALIFAX Nova Scotia this 28 day of JUNE, 2023.

TODD ALGUIRE Legal Name of Appellant (please print)

Original signed

Signature of Appellant

Preferred Name

(Address)

(Apt)

SEND TO: Office of the Municipal Clerk P.O. Box 1749 Halifax, NS B3J 3A5 Fax: 902-490-4208 Email: clerks@halifax.ca

(City)

(Postal Code)

Deliver in person: City Hall, 1841 Argyle Street, Halifax (Mon-Fri, 8:30am-4:30pm)

Contact Number or Email

Appendix E

June 29, 2023

**REGISTERED MAIL
&
EMAIL –** [REDACTED]

Todd Alguire
[REDACTED]

Re: Case CF-2023-013060, 51 Winchester Avenue, Halifax

This is to advise that your appeal will be heard by the Appeals Committee on **Thursday, September 7, 2023**. The hearing will be held in the Council Chamber, 3rd Floor, City Hall, 1841 Argyle Street, Halifax. Please arrive for 10 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 Halifax.ca by end of day Friday, September 1, 2023. If you require a hard copy of the report, please contact our office.

If filing an appeal, 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 902.240.7164.

Sincerely,
Original signed

Andrea Lovasi-Wood
Legislative Assistant
Office of the Municipal Clerk

Cell 902.240.7164
Email lovasia@halifax.ca

cc: Tanya Phillips, Manager, By-law Standards
Scott Hill, Supervisor, Regional Compliance
Vicki Aguinaga, Supervisor, Support Services

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

HALIFAX

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

halifax.ca

Appendix E

Laurie Lauder, Adjudication Clerk
Melissa LaPierre, Adjudication Clerk
Thomas Murdoch, Compliance Officer

Enclosure: Order of Proceedings for Appeals Standing Committee

Appendix E

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.