



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

Item No. 12.1.1
Appeals Standing Committee
October 12, 2023

TO: Chair and Members of Appeals Standing Committee

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

DATE: September 29, 2023

SUBJECT: **Appeal Report – Case 2023 017098, 255 Pleasant Street, Dartmouth**
– Case 2023 022248, 257 Pleasant Street, Dartmouth

ORIGIN

Appeal of Orders 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:

The properties at 255 and 257 Pleasant Street, Dartmouth are next to each other and owned by the same property owner. The properties have separate PID and tax numbers.

There have been 2 previous unsightly cases at 255 Pleasant Street, related to derelict vehicles. The cases were closed as owner compliance.

There have been 3 previous unsightly cases at 257 Pleasant Street, related to derelict vehicles. The cases were closed as owner compliance.

The property is zoned COR (corridor). A review of the HRM database system shows no permits issued for the property.

A complaint was received on July 2, 2023, for the property at 255 Pleasant Street. The complainant reported 10 derelict vans in the front yard that never move, as well as overgrown grass.

This report will focus on the appeal dated August 29, 2023, by the property owner, of the Orders to Remedy for derelict vehicles at 255 and 257 Pleasant Street (cases 2023-017098 and 2023-022248 respectively).

CHRONOLOGY OF CASE ACTIVITIES:

07-Jul-2023 The Compliance Officer conducted a site inspection at 255 and 257 Pleasant Street, Dartmouth hereinafter referred to as “the properties” (attached as Appendix B and C respectively).

The Compliance Officer noted multiple derelict vehicles spread out among the properties, as well as overgrown curbside grass.

The Compliance Officer attempted to get to the front doors of both dwellings, however obstructions prevented safe access. The Compliance Officer returned to the front of the properties and was approached by the property owner.

The Compliance Officer explained the complaint and violations noted at the property. The property owner stated that the curbside grass was the responsibility of HRM, and it was not the property owner’s responsibility. The Compliance Officer attempted to explain that the property owner was responsible for maintaining the curbside grass however the property owner was getting upset so the Officer left the property.

The Compliance Officer is managing the curbside grass violations separately.

28-Aug-2023 The Compliance Officer conducted a site inspection and noted the violations still exist.

The Compliance Officer was not able to access the front doors to the properties due to obstructions. The Compliance Officer posted a 30-day Order to Remedy (attached as Appendix D) to a piece of wood for derelict vehicles at 255 Pleasant Street, and a 30-day Order to Remedy (attached as Appendix E) for the derelict vehicles at 257 Pleasant Street.

The property owner approached the Compliance Officer as they were leaving the property. The Compliance Officer advised the property owner of the posted Orders, and

explained the work required. The property owner stated that the vehicles cannot be seen from the road, and they did not understand why they were being actioned.

The Compliance Officer explained to the property owner that complaints received by HRM must be investigated, and violations identified must be actioned. The Compliance Officer also reviewed the property owner's right to appeal.

Copies of the Orders were sent to the property owner through registered mail.

29-Aug-2023 The property owner submitted a Notice of Appeal (attached as Appendix F) to the Municipal Clerk's Office.

05-Sep-2023 The Municipal Clerk's Office sent the property owner a letter advising the appeal was scheduled for the October 12, 2023, Appeals Standing Committee meeting (attached as Appendix G).

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 Orders 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 Nova Scotia Property Records Map
Appendix D: Copy of the Order to Remedy vehicle dated August 28, 2023
Appendix E: Copy of the Order to Remedy vehicle dated August 28, 2023
Appendix F: Copy of the Notice of Appeal dated August 29, 2023
Appendix G: Copy of the letter from the Clerk's Office dated September 5, 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: Alexandra Alessi, Compliance Officer II, By-law Standards, 782.640.7542

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:

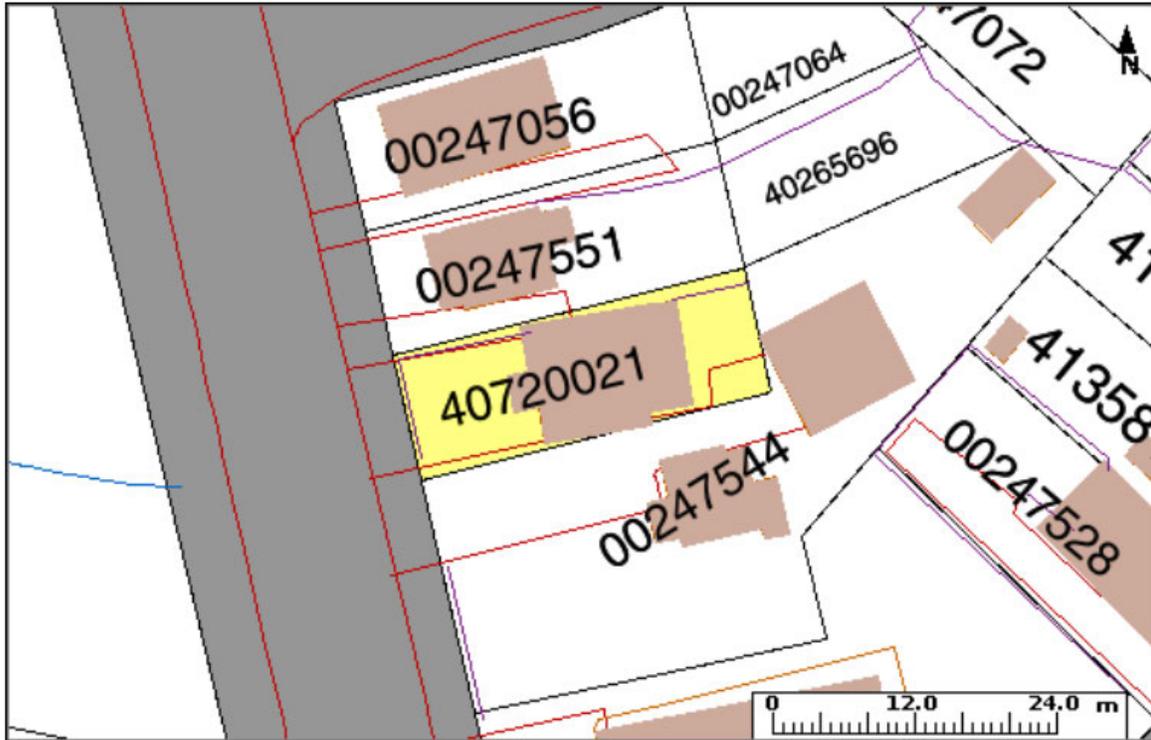
- 356 (2) An owner may appeal an order of the Administrator to the Council or to the committee to which the Council has delegated its authority within seven days after the order is made.
- (3A) Where the Council or the committee varies or overturns the order of the Administrator, the Council or committee 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: Sep 18, 2023 8:28:30 AM



PID: 40720021	Owner: ERNEST ROBERT MACCULLOCH	AAN: 00686336
County: HALIFAX COUNTY	Address: 255 PLEASANT STREET DARTMOUTH	Value: \$227,900 (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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Property Online Map

Date: Sep 18, 2023 8:30:25 AM



PID:	00247544	Owner:	ERNEST ROBERT MACCULLOCH	AAN:	00686301
County:	HALIFAX COUNTY	Address:	257 PLEASANT STREET DARTMOUTH	Value:	\$158,800 (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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**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 255 PLEASANT ST, DARTMOUTH, NS B2Y3S1;
Case # CF-2023-017098;
Hereinafter referred to as the "Property"

TO: ERNEST ROBERT MACCULLOCH

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

AND WHEREAS located on the Property is an unsightly or dangerous condition due to a dark grey/black vehicle that has been deemed to be derelict as it appears to be disused or abandoned by reason of it's 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 dark grey/black vehicle, 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 (30) 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 24th day of August 2023. **Original signed**

ALEXANDRA ALESSI
COMPLIANCE OFFICER
Phone: 782-640-7542

TANYA PHILLIPS
Administrator
Halifax Regional Municipality



**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 257 PLEASANT ST, DARTMOUTH, NS B2Y3S1;
Case # CF-2023-022248;
Hereinafter referred to as the "Property"

TO: ERNEST ROBERT MACCULLOCH

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

AND WHEREAS located on the Property is an unsightly or dangerous condition due to seven (7) white vans, one (1) grey Ford F-150, one (1) blue van, one (1) blue Ford ranger, and one (1) blue Hyundai that 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 seven (7) white vans, one (1) grey Ford F-150, one (1) blue van, one (1) blue Ford ranger, and one (1) blue Hyundai, 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 (30) 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 24th day of August 2023. **Original signed**

ALEXANDRA ALESSI
COMPLIANCE OFFICER
Phone: 782-640-7542

TANYA PHILLIPS
Administrator
Halifax Regional Municipality

Lovasi-Wood, Andrea

From: Office, Clerks
Sent: Tuesday, August 29, 2023 3:40 PM
To: Lovasi-Wood, Andrea
Subject: FW: [External Email] Notice To Appeal "Order(s) To Remedy"
Attachments: Screenshot_20230829_134057_Photos.jpg; Screenshot_20230829_134123_Photos.jpg; Screenshot_20230829_133943_Photos~2.jpg

Logging to ASC

From: Ernest MacC [REDACTED]
Sent: Tuesday, August 29, 2023 3:33 PM
To: Office, Clerks <clerks@halifax.ca>
Subject: [External Email] Notice To Appeal "Order(s) To Remedy"

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

August 29, 2023

HRM Administrator:

I, Ernest R. MacCulloch, Property Owner of 255 and 257 Pleasant Street, Dartmouth wish to file this written "Notice(s) To Appeal" in relation to two "Order(s) To Remedy" served by HRM Compliance Officer, Alexandra Alessi, on August 24, 2023 respecting the above noted Properties.

The Case Numbers are as follows:

- (1) Case # CF-2023-017098
255 Pleasant Street
- (2) Case # CF-2023-022248
257 Pleasant Street

My Reasons for Appeal are as follows;

HRM Compliance Officer's failure to issue any "Notice(s) Of Violation" Supported by my communication with HRM 311 on July 5, 2023 Reference # CM-2023-017381

The alleged vehicles listed are not derelict vehicles and have a "Registry Of Motor Vehicles" Red Book value and or the Kelley Blue Book Appraisal value.

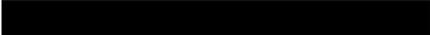
Appendix F

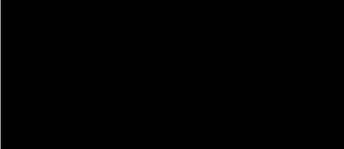
The said vehicles are located on Commercial C2 Private Property and pose No Risk or Threat to Public Safety.

Further grounds for Appeal will be illustrated and provided moving forward as I prepare my Defense for the "Appeals Standing Committee"

Dated this 29th day of August, 2023

I will ask for Immediate consideration concerning the dismissal of "Order To Remedy" Case # CF-2023-017098 on the grounds of Insufficient Description.


Thanking You In Advance,

Ernest R. MacCulloch


Appendix G

September 5, 2023

REGISTERED MAIL
&
EMAIL - [REDACTED]

Ernest R. MacCulloch
[REDACTED]

Re: Case CF-2023-017098, 255 Pleasant Street, Dartmouth

This is to advise that your appeal will be heard by the Appeals Committee on **Thursday, October 12, 2023**. Further to my September 5, 2023 email, By-Law services staff confirm that one Order to Remedy is currently issued to 255 Pleasant Street regarding a derelict vehicle. The hearing for your appeal of this Order 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, October 6, 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 wish to include images, video or audio as part of your appeal presentation to the Committee, you must notify me by end of day Tuesday, October 10, 2023 to allow for technical preparation and testing.

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

HALIFAX

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

halifax.ca



Appendix G

cc: Tanya Phillips, Manager, By-law Standards
Scott Hill, Supervisor, Regional Compliance
Vicki Aguinaga, Supervisor, Support Services
Laurie Lauder, Adjudication Clerk
Michelle LaPierre, Adjudication Clerk
Alexandra Alessi, Compliance Officer

Enclosure: 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.

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.

Appendix G

September 5, 2023

REGISTERED MAIL
&
EMAIL - [REDACTED]

Ernest R. MacCulloch
[REDACTED]

Re: Case CF-2023-022248, 257 Pleasant Street, Dartmouth

This is to advise that your appeal will be heard by the Appeals Committee on **Thursday, October 12, 2023**. Further to my September 5, 2023 email, By-Law services staff confirm that one Order to Remedy is currently issued to 257 Pleasant Street regarding derelict vehicles. The hearing for your appeal of this Order 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, October 6, 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.

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Sincerely,

[REDACTED]
Andrea Lovasi-Wood
Legislative Assistant
Office of the Municipal Clerk

HALIFAX

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

halifax.ca



Appendix G

cc: Tanya Phillips, Manager, By-law Standards
Scott Hill, Supervisor, Regional Compliance
Vicki Aguinaga, Supervisor, Support Services
Laurie Lauder, Adjudication Clerk
Michelle LaPierre, Adjudication Clerk
Alexandra Alessi, Compliance Officer

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- Staff may ask questions to the Appellant (subject to Appellant's response to the answers)
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