



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

Item No. 12.1.1
Appeals Standing Committee
January 11, 2024

TO: Chair and Members of Appeals Standing Committee

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

DATE: December 19, 2023

SUBJECT: Appeal Report – Case CF-2023-030140 92 Kelly Road, Wellington

ORIGIN

Appeal of Order to Remedy the condition of a properties 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 Order of the Administrator and thereby deny the appeal.

BACKGROUND:

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

The property is zoned R-6 (Rural Residential).

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

A complaint was received by service request on November 1, 2023. The complainant reported scattered debris around the property.

CHRONOLOGY OF CASE ACTIVITIES:

- 02-Nov-2023 The Compliance Officer conducted a site inspection at 92 Kelly Road, Wellington hereinafter referred to as “the property” (attached as Appendix B).
- The Compliance Officer noted an accumulation of debris throughout the property. The Compliance Officer knocked at the door and the owner answered the door. The Compliance Officer advised the owner that a Notice of Violation will be issued for the violations (attached as Appendix C).
- 09-Nov-2023 The Compliance Officer conducted a site inspection and noted violations still exist. The Compliance Officer spoke to the property owner while on site.
- 16-Nov-2023 The Compliance Officer conducted a site inspection and spoke with the property owner as they were on site. The Compliance Officer advised of the violations that were still present and provided the property owner a copy of the 7-day Order to Remedy (attached as Appendix D). The property owner was made aware of the process and their right to appeal.
- 23-Nov-2023 The property owner submitted a Notice of Appeal (attached as Appendix E) to the Municipal Clerk’s Office.
- 24-Nov-2023 The Municipal Clerk’s Office sent the property owner a letter advising the appeal was scheduled for the January 11, 2024, Appeals Standing Committee meeting (attached as Appendix F).

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 dated November 2, 2023
 - Appendix D: Copy of Order to Remedy dated November 16, 2023
 - Appendix E: Copy of the Notice of Appeal dated November 23, 2023
 - Appendix F: Copy of the letter from the Clerk's Office dated November 24, 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: Peter Popperl, Compliance Officer II, By-law Standards, 902.499.7241

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: December 21, 2023 13:47:21 PM



PID:	00530865	Owner:	LEONARD D METHAM	AAN:	03220095
County:	HALIFAX COUNTY		JOAN METHAM	Value:	\$58,000.00 (2023 RESIDENTIAL TAXABLE)
LR Status:	NOT LAND REGISTRATION	Address:	92 KELLY ROAD WELLINGTON LOT 27		

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.

HALIFAX

Buildings and Compliance

Notice of Violation

Notice Served Upon: _____

Address: 92 Kelly Rd, WELINGTON

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

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

Details of violation(s):

AN ACCUMULATION OF DEBRIS INCLUDING BUT NOT LIMITED TO SCRAP WOOD, SCRAP METAL, USED VEHICLE PARTS, OLD TIRES, STEEL DRUMS, USED PLASTICS, OLD LAWN MOWERS, USED INDOOR FURNITURE, RECYCLABLES, AND LOOSE SCATTERED DEBRIS.

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

REMOVE VIOLATIONS FROM THE PROPERTY.

Notice of Re-inspection:

A re-inspection will be performed on Nov 9, 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.

PETER POPPERL
Issuing Officer

02/0/23
Date (dd/mm/yy)

902-499-7241
Issuing Officer Phone Number

11:47
Time (hh/mm)

Original Signed

2023-030140
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 92 KELLY RD, WELLINGTON, NS B2T1B6;

Case # CF-2023-030140;
Hereinafter referred to as the "Property"

TO: **JOAN METHAM**
LEONARD D METHAM

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, used vehicle parts, old tires, steel drums, washer tubs, fridges, discarded plastics, doors, windows, old lawn mowers, sink, discarded indoor furniture, recyclables, rope, hose tubing, a fan, and loose scattered litter and 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, used vehicle parts, old tires, steel drums, washer tubs, fridges, discarded plastics, doors, windows, old lawn mowers, sink, discarded indoor furniture, recyclables, rope, hose tubing, a fan, and loose scattered litter and 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 November 16, 2023.

PETER POPPERL
COMPLIANCE OFFICER
Phone: (902) 499-7241

ORIGINAL SIGNED
SCOTT HILL
Administrator
Halifax Regional Municipality

HALIFAX

Appendix E

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 92 KELLY RD, WELLINGTON, NS B2T1B6;
PID # 00530865; Tax # 03220095,
Case # CF-2023-030140;
Hereinafter referred to as the "Property."

TO: **JOAN METHAM**
LEONARD D METHAM
[REDACTED]

*Please take
Note; This is a letter
of appeal for more
time to complete
Clean-up.*

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

AND WHEREAS located on the Property is an unsightly or dangerous condition due including but not limited to scrap wood, scrap metal, used vehicle parts, old tires, st fridges, discarded plastics, doors, windows, old lawn mowers, sink, discarded indoor hose tubing, a fan, and loose scattered litter and debris, in accordance with Section

[REDACTED]

TAKE NOTICE that you are hereby Ordered to remedy the condition of the Property accumulation of debris including but not limited to scrap wood, scrap metal, used ve drums, washer tubs, fridges, discarded plastics, doors, windows, old lawn mowers, furniture, recyclables, rope, hose tubing, a fan, and loose scattered litter and 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 November 16, 2023.

Original Signed

PETER POPPERL
COMPLIANCE OFFICER
Phone: (902) 499-7241

SCOTT HILL
Administrator
Halifax Regional Municipality

Appendix F

November 24, 2023

REGISTERED MAIL

Leonard Metham
[REDACTED]

CANADA POSTES POUR POSTES CANADA		REGISTERED DOMESTIC CUSTOMER RECEIPT	RECOMMANDÉ RÉGIME INTÉRIEUR REÇU DU CLIENT	R
To Name	Destinataire Nom	FOR DELIVERY CONFIRMATION canadapost.ca		CONFIRMATION DE LA LIVRAISON postscanada.ca
Address	Adresse	1 888 550-6333		
City / Prov. / Postal Code	Ville / Prov. / Code postal			
Declared Value Value déclarée \$				
33-885-S04 (17-12)				

Re: Case CF-2023-030140, 92 Kelly Road, Wellington

This is to advise that your appeal will be heard by the Appeals Standing Committee on **Thursday, January 11, 2024**.

This meeting will happen in-person in the Council Chamber at Halifax City Hall, 1841 Argyle Street, Halifax. All visitors to City Hall must sign-in at the security desk and show government-issued photo ID; more detail is attached.

Please arrive for 10:00 a.m. but note that there may be other cases heard before yours on the agenda.

If you cannot attend in person and must participate using Zoom, please let me know no later than 4:30pm on the business day prior to the meeting.

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, January 5, 2024. 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 Standing Committee and/or council members and staff, and will form part of the public record, but it will not be posted online. 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 Standing Committee, you must notify me by end of day Tuesday, January 9, 2024 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 Standing 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 Standing Committee's decision.

Appendix F

If you have any questions regarding this process, please contact me at 902-240-7164.

Sincerely,



Andrea Lovasi-Wood
Legislative Assistant
Office of the Municipal Clerk

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

Enclosures:

- Information – Attending In Person Meetings
- Order of Proceedings for Appeals Standing Committee

Attending In-Person Meetings

There are sign-in procedures in place for everyone visiting Halifax City Hall for all meetings and events.

All visitors, including media, must sign-in at the security desk, located at the main (Grand Parade) entrance of City Hall. Visitors who use the accessible entrance on Argyle Street will be escorted to the security desk by staff.

All visitors must present federal, provincial, or territorial government-issued photo ID to security. They also must provide their first and last name and the reason for their visit. If a visitor does not have government issued photo ID, they may present two pieces of federal, provincial, or territorial government-issued ID, two pieces of documentation (e.g. bills) or a combination of two pieces of government-issued ID/documentation as long as they both include their first and last name.

For children younger than 18, one piece of government-issued identification, such as an original birth certificate, health card, passport or non-government-issued ID (e.g. student card) is recommended but not mandatory as long as the child is accompanying a parent/guardian.

Once signed-in, visitors will be given a visitor badge to wear while they're in City Hall. This badge must be visible during their entire visit and be returned to security staff as they're leaving the building.

If visitors require the use of an elevator, they can notify a member of staff who can assist.

Visitors are reminded that no signs or placards are permitted in City Hall.

For questions about attending a meeting in City Hall, contact the Municipal Clerk's Office.

<https://www.halifax.ca/city-hall/regional-council/attending-person-meetings>

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.