



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

Item No. 8.1
Appeals Standing Committee
April 14, 2022

TO: Chair and Members of Appeals Standing Committee

Original Signed

SUBMITTED BY: _____
Andrea MacDonald, Acting Director, Buildings and Compliance

DATE: April 4, 2022

SUBJECT: Appeal Report – Cases 366041, 5659 Bloomfield Street, Halifax

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 Order of the Administrator and thereby deny the appeal.

BACKGROUND:

There have been two previous dangerous or unsightly cases at the property; one closed owner compliance and the other with a remedy completed by HRM to bring the property into compliance.

The property is zoned ER-1 (Established Residential 1).

A complaint was received by service request on December 3, 2021. The complainant stated the property owner at this location collects cans and bottles and stores them in the backyard.

There have been no subsequent complaints regarding the property.

This report will focus on the appeal dated January 12, 2022 by the property owner of the Order to Remedy for the debris.

CHRONOLOGY OF CASE ACTIVITIES:

- 04-Dec-2021 The Compliance Officer conducted a site inspection at 5659 Bloomfield Street, Halifax hereinafter referred to as “the property” (attached as Appendix B).
- The Compliance Officer was unable to access the backyard due to a locked padlock on the gate door. From a neighboring property the Compliance Officer was able to observe wood pallets that were leaning against tarps, bags of recyclables, plastic containers, and buckets.
- 05-Jan-2022 The Compliance Officer conducted a site inspection and noted the violation remained. The Compliance Officer posted the Order to Remedy (attached as Appendix C) at the property.
- The Compliance Officer attempted to contact the property owner and due to the voicemail not matching the property owner name did not leave a message.
- 12-Jan-2022 The property owner submitted a Notice of Appeal (attached as Appendix D) to the Municipal Clerk’s Office.
- 13-Jan-2022 The Municipal Clerk’s Office sent the property owner a letter advising the appeal would be heard at the March 10, 2022 Appeals Standing Committee meeting (attached as Appendix E).
- 06-Mar-2022 The Compliance Officer conducted a site inspection and the property owner was on site. The property owner advised the Compliance Officer that they didn’t believe they would attend the meeting as they were unwell. The property owner further advised that they would email their plans for debris removal to the Municipal Clerk’s Office.
- The Compliance Officer noted that there was snow covering what appeared to be bags of recyclables piled approximately five feet high.
- 08-Mar-2022 A copy of the report package for the March 10, 2022 meeting of the Appeals Standing Committee was hand delivered to the property owner.
- 09-Mar-2022 The property owner emailed the Municipal Clerk’s Office (attached as Appendix F) and advised they would not be in attendance at the March 10, 2022 meeting of the Appeals Standing Committee and outlined their plans to bring the property into

compliance.

- 10-Mar-2022 The Appeals Standing Committee deferred the appeal to the April 14, 2022 meeting.
- 11-Mar-2022 The Municipal Clerk's Office sent the property owner a letter advising the appeal was deferred to the April 14, 2022 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 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 dated January 5, 2022
Appendix D: Copy of the Notice of Appeal dated January 12, 2022
Appendix E: Copy of the letter from the Clerk's Office dated January 13, 2022
Appendix F: Copy of the property owner's email of regret and intent dated March 9, 2022
Appendix G: Copy of the letter from the Clerk's Office dated March 11, 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: Roody Mitri, Compliance Officer II, By-law Standards, 902.237.2814

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;

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 5659 BLOOMFIELD ST, HALIFAX, NS,
Case # 366041

Hereinafter referred to as the "Property"

TO: JOHN ALEXANDER WRIGHT
&
KEN-PORTER

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 tarps, bags of recyclables, wood pallets, scrap wood, loose solid waste, and other scattered debris, in accordance with Section 3(q) of the Charter;

TAKE NOTICE that you are hereby Ordered to remedy the condition of the Property by removing the accumulation of debris including but not limited to tarps, bags of recyclables, wood pallets, scrap wood, loose solid waste, and other scattered debris, so as to leave the Property in a neat, tidy, environmentally compliant and safe condition;

TAKE FURTHER NOTICE that you have the right to appeal this Order to the Appeals Standing Committee of the Halifax Regional Municipality ("HRM") by filing a Notice of Appeal with the Municipal Clerk by mail at City Hall, P.O. Box 1749, Halifax, NS, B3J 3A5 or by fax to (902) 490-4208, within seven (7) days after the Order is posted in a conspicuous place upon the Property or served upon you;

AND FURTHER TAKE NOTICE that your failure to comply with the requirements of this Order within seven (7) days after service, the Administrator, or any person authorized by the Administrator, may enter upon the Property without warrant or other legal process and carry out the work specified in this Order.

AND FURTHER TAKE NOTICE that the costs of complying with this Order, including the cost of completing the work specified herein, incurred by the Halifax Regional Municipality ("HRM") or its agents, is a debt payable by you to HRM and that HRM has a first lien on the Property in the amount of the debt which may be collected in the same manner and with the same rights and remedies as rates and taxes pursuant to the Charter;

AND FURTHER TAKE NOTICE that upon service of this Order any person who aids, assists, permits or causes a dangerous or unsightly condition or fails to comply with the terms of this Order is liable on summary conviction to a penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) and every day during which the condition is not remedied is a separate offense.

DATED at Halifax, Nova Scotia this 5th of January, 2022 AD. **Original Signed**

ROODY MITRI
COMPLIANCE OFFICER
Phone: (902)237-2814 x

SCOTT HILL
Administrator
Halifax Regional Municipality

Appendix D

VALID

HALIFAX REGIONAL
MUNICIPALITY

January 12, 2022

MUNICIPAL CLERK

From: [Office, Clerks](#)
To: [Vining, Krista](#)
Subject: FW: [External Email] RE: Order to Remedy. Case #366041, dated 2022-01-05
Date: Wednesday, January 12, 2022 7:36:45 AM

From: John Wright [REDACTED]
Sent: Tuesday, January 11, 2022 5:30 PM
To: Office, Clerks <clerks@halifax.ca>
Subject: [External Email] RE: Order to Remedy. Case #366041, dated 2022-01-05

Attachment is the following in a Word document.

INTHEMATTEROF

Propertylocated at 5659 Bloomfield Street, Halifax, NS

Case# 366041

I John Wright wish to file this Written Notice of Appeal in relation totheOrderIreceiveddated the January 5th, 2022from the Compliance Officer Roodi Mitri respectingtheabovenoted Property.

Thereason forappealis:

There is no dangerous or toxic material, no garbage, no derelict vehicles on my property. Nothing that presents harm, danger or inconvenience to anyone. I've been told by several HRM employees that material kept under tarpaulins or otherwise out of sight is "OK".

| **DATED**at Halifax, NovaScotia, January 11, 2022.

John Wright

[REDACTED]

[REDACTED]

--

John Wright

[REDACTED]

Appendix E

January 13, 2022

REGISTERED MAIL & EMAIL

John Wright
[REDACTED]

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

Re: Case 366041 Property located at 5659 Bloomfield Street, Halifax

This is to advise that your appeal will be heard on **Thursday, March 10, 2022 at 10:00am** by the Appeals Standing Committee. Details on the meeting location (virtual or in-person) and order of proceedings will be sent in a subsequent letter, at a later date.

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 vingk@halifax.ca.

Sincerely,
Original Signed

 Krista Vining
Legislative Assistant
Office of the Municipal Clerk

cc: Tanya Phillips, Manager, By-law Standards
Scott Hill, Regional Coordinator By-law
Natalie Matheson, Support Services Supervisor, Municipal Compliance
Laurie Lauder, Adjudication Clerk
Roddy Mitri, Compliance Officer

HALIFAX

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

halifax.ca

Appendix F

From: [John Wright](#)
To: [Vining, Krista](#)
Cc: [Phillips, Tanya](#); [Hill, Scott](#); [Matheson, Natalie](#); [Lauder, Laurie](#); [Mitri, Roody](#); [Neate, Leslie](#)
Subject: [External Email] RE: Case 366041 Property located at 5659 Bloomfield Street, Halifax
Date: Wednesday, March 9, 2022 2:30:41 PM

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

I'm afraid I cannot attend tomorrow's virtual hearing on my appeal concerning Case #366041 re 5659 Bloomfield Street, Halifax. This is what I have to say.

My intention is to comply with the order regarding my backyard over the coming weeks given that the weather (and my health) now allows for it. I think it is quite doable (assuming the weather holds).

I would again point out there is nothing dangerous, toxic or unsanitary on my property. In my view, no one is being harmed, endangered, impeded or inconvenienced. But I do understand that HRM by-laws go beyond these considerations.

I have been told several times by HRM staff that it is OK to store material outside under a tarpaulin (out of sight). I am aware that several of my tarps have become worn and torn and/or blown off in some of the high wind events we've had. Again, I plan to fix this in the coming days.

I plan to cease collecting any more material until this is complete (and probably for good).

My goal is to have a proper fence constructed along the back and side of my yard where there is now an 'improvised' barrier (as I've had problems with trespassers and thieves since a fence belonging to the building behind my property was removed a few years ago). I've realized there needs to be clear space in the yard to do this & other planned work so I'm doubly motivated to make that space.

I apologize for the short notice and I will look for your response in my email.

--

John Wright


Appendix G

March 11, 2022

REGISTERED MAIL & EMAIL

John Wright
[REDACTED]

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

Re: Case 366041 Property located at 5659 Bloomfield Street, Halifax

This is to advise that the Appeals Standing Committee received and considered your March 9, 2022 correspondence at their March 10, 2022 meeting and passed a motion to defer your case to their April 14, 2022 meeting to allow you to be in attendance to present your appeal.

Your hearing will now be heard **Thursday, April 14, 2022 at 10:00 a.m. in the Halifax Council Chamber, 3rd Floor City Hall, 1841 Argyle Street, Halifax.**

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, April 8, 2022 (<https://www.halifax.ca/city-hall/agendas-meetings-reports>) If you require a hard copy of the report, please make arrangements with me prior to your hearing.

If you have any materials you would like to submit to the Appeal Standing Committee as part of your appeal, please make arrangements with me prior to your hearing. 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 and should contact me to make arrangements to attend the meeting. 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

fv Krista Vining
Acting Deputy Clerk
Office of the Municipal Clerk

Encl. Order of Proceedings

cc: Tanya Phillips, Manager, By-law Standards
Scott Hill, Regional Coordinator By-law
Natalie Matheson, Support Services Supervisor, Municipal Compliance
Laurie Lauder, Adjudication Clerk
Roddy Mitri, Compliance Officer
Karen MacDonald, Senior Solicitor

HALIFAX

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

halifax.ca

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.