

CONFIDENTIAL

File No. D862

TO: His Worship Mayor J. E. Lloyd and
Members of the City Council

FROM: P. F. C. Byars, City Manager

DATE: November 26, 1962

SUBJECT: Africville

Attached for information purposes is a copy of a letter from the Development Officer to Mr. George W. Davis, Secretary of a committee representing the Africville group.

City Staff have had one meeting with the group. The questions dealt with in the letter were dealt with verbally at the meeting. The letter merely serves to confirm the answers given at that time.

The Committee has had one further meeting itself since meeting with City Staff. It proposes to further review the discussions and the written material within Committee and with the residents of Africville. Following this, further meetings will be held with Staff.

The progress of negotiations and discussions will be reported to members of Council on a confidential basis from time to time.

Respectfully submitted,



P. F. C. Byars
City Manager

RBG/meb
Attachment

November 21, 1962

Mr. George W. Davis
Barrister
239 Gottingen Street
Halifax, Nova Scotia

Dear Mr. Davis:

RE: Africville

I will attempt to outline below the answers to the questions you have raised in respect of Africville. The questions are dealt with in the order presented by you except in one instance. You will note that I have given the answer to Question 5 before Question 4. This is done for simplification as the answer to Question 5 partially answers Question 4.

1. What precisely are the boundaries of Africville?

The area known as Africville has no definitive legal boundaries. For purposes of the City report of July 23, 1962, Africville is considered to include all the buildings identified by number on Plan No. P500/46 attached. The area would, of course, include the lands which could be legally identified with each and all of the buildings.

There may be some who feel that Africville includes either more or less land and buildings than those illustrated on the plan. The ultimate definition is entirely one of judgment.

2. Why does the City of Halifax want to expropriate Africville?

It is the opinion of the City that most, if not all of the buildings in the area covered by the report could be ordered vacated under the provisions of Section 757 of the City Charter, Ordinance 50, and the statutes pertaining to health and fire protection. In many instances, the buildings could be ordered demolished. If the various legislative provisions are enforced in their entirety, as is happening in other parts of the City, residents of Africville would, almost without exception be required to find alternative accommodation.

Some residents of the area may have good title to their lands. Others have questionable title while still others could prove no title at all. In view of the title situation and the lack of services, residents of the area would be left with little possibility of developing or disposing of their land. Clouds on title would

- Digital copy of excerpt from 102-44-5-2862 provided by Halifax Municipal Archives
2. make it very difficult, if not impossible, to raise funds by way of mortgage loans to assist in rebuilding.

It is the opinion of City Staff that conditions in Africville cannot be brought to the minimum level required by Ordinance 50 through a salvage operation. A copy of Ordinance 50 is attached. Essential services, such as sewer, water, and roads require an orderly arrangement of housing units on an acceptable pattern of public rights-of-way. These services cannot be installed without a complete re-arrangement of structures and of land holdings.

Structures moved, as would be required to permit the installation of essential municipal services, are required to meet the standards of new construction within the City. As you are aware, these standards are considerably higher than those imposed under Ordinance 50. Few, if any, of the existing structures could be brought to the standard required of a new building.

In essence, therefore, the City of Halifax proposes to expropriate the Africville area in order to permit betterment of housing conditions for the residents. In the process, it would expect to clear title for the lands in the area once and for all. This would permit these lands to be re-used in an orderly manner and with all the financial assistance that is normally available from the financial community.

By expropriating the properties, the City would make itself liable for claims for compensation by persons holding title to lands in the area. Such claims would be compensated at full market value. At the same time, possession of clear title to the lands by the City would serve to justify to some extent gratuitous payments to those with no legal but some moral claim of title.

The present proposal is that the lands in the area should ultimately be converted for industrial or commercial use. A major requirement of the City is the requirement for a right-of-way for the proposed new Shore Drive. The proposals for re-use are illustrated on Plan No. P500/44 attached. The re-use proposals for the area may have some slight bearing on a decision to expropriate but the primary reason is the necessity to permit and assist the residents of Africville to comply with the requirements imposed upon the balance of the residents of the City of Halifax.

3. If Africville land is potentially valuable for industrial purposes, will residents of Africville receive high value in return for lands expropriated?

Industrial lands are not normally of high value. Most industries are looking for cheap land and most municipalities welcome such industry in spite of this basic requirement. The economic wellbeing of a community depends upon a vigorous employment factor and industry creates this.

3. Digital copy of excerpt from 102-4A-5-D862 provided by Halifax Municipal Archives
The present uncertainty as to land title in the area would make the land virtually useless for industrial purposes. Industries require clear title before they would consider constructing a plant. They need this clear title to protect themselves and in order to encourage participation in the financing of their operations by lending agencies.

The amounts paid by the City for land is not governed by the potential future use of that land. Payments are based upon the present use of the land and reflect the true market value in use of such lands and buildings.

In order to insure a just settlement for both the City and the owner, independent appraisers are engaged by the City to place a market value on each property. Many owners also engage independent appraisers to establish their value for them. Negotiations are carried forward within the framework of values established by these independent appraisals. In the event that negotiations are unsuccessful, the former owner of an expropriated property has recourse to the Courts for establishment of a just settlement. In view of this, our negotiations reflect the decision of previous court cases.

There will be those in the Africville area who have in fact no legal claim to the land which they occupy. The City recognizes that it could expropriate these properties and have no legal liability for compensation. It has been suggested that a form of gratuitous payment be made to those with a moral claim for compensation. Such payment would not be required to be paid by the Courts.

5. Has tax money been accepted from people who lack titles to the properties that they possess? If so, why?

The answer to the first part of this question is yes. For many years properties in the Africville area were not assessed. The reason for the lack of assessment was the apparent lack of a clear claim of land ownership.

In 1956, after the completion of the Cleminshaw Re-valuation of City properties for assessment purposes, the City Assessor became quite concerned about the situation in the Africville area. After consultation with the former City Manager and the former City Solicitor, it was decided that all properties in Africville and indeed throughout the City would be assessed even though no clear title could be established. The basis of assessment was that it would apply only to the buildings. The assessment would be made against the apparent owner of the building. The assessments were in fact made against the persons who claimed to own the building whether these persons could justify their claim or not.

5. The justification for the assessment was the provision contained in the City Charter that occupants of buildings on lands owned by the City of Halifax or Her Majesty the Queen are liable for real estate taxes on the buildings which they occupy. Most of the roots of title examined by the City indicated that the land was originally owned by the City or Her Majesty. Where clear title was not held by an individual it could well be argued that the last known title was vested in the City or Her Majesty.

4. Why has the City accepted payment of taxes on land which was expropriated in 1957?

The original assessments on the properties which were expropriated by the City in 1957 were placed in accordance with and for the reasons given in answer to your Question 5.

When the City expropriated these lands in 1957 it anticipated a claim for compensation from the Estate of William Carvery. It also anticipated that the buildings and the lands would be cleared in a reasonable period of time. Neither of these events occurred.

Assessments against the structures within the area were continued through the year 1960. This continued assessment and any tax collections resulting from the collections are justified on the basis that occupants of structures located on lands owned by the City are, by City Charter, liable for real estate taxes. The assessments were discontinued in the year 1961 on the advice of the then City Solicitor that clear title rested with the City and it was their hope that the lands would be used within a reasonable period of time for industrial development.

6. Why has the assessment of some properties (as reflected in tax bills) decreased during the past few years?

Prior to 1956, assessments in the City of Halifax on residential properties did not closely reflect current market values. In 1956, the J. M. Clemshaw Company completed a re-assessment programme of all properties within the City. The Clemshaw Company approach to assessed value was current market value. This was in accordance with the interpretation of the requirements of the City Charter.

The original assessments in the Africville area were based upon the original Clemshaw valuations. Shortly after the adoption of the Clemshaw valuations throughout the City, City Council, as a result of numerous appeals, reduced the Clemshaw valuations by 15% across the board. The first reduction in assessment in the Africville area, therefore, reflected this 15% reduction.

6. ^{Digital copy reference: 02-465 D86 provincial Archives} ~~The net result of the Ordinance re-valuation~~ with its slight subsequent reduction by City Council is a very marked increase in the total value of assessed properties in the City of Halifax. The required tax revenue did not change appreciably. The result was that many residential properties and, particularly those in the Africville area, were required to pay substantially less taxes than they would have had to pay prior to re-valuations for assessment purposes. The tax return on residential properties was reduced at this time from \$3.72 to \$1.50 per \$100.00 of residential assessment.

In 1960, the City Assessor's Department did a further re-assessment of all properties. This re-assessment had to take into consideration the provisions of Ordinance 50 which was adopted in 1958. In effect it meant the value of properties which could not conform to the minimum provisions of this ordinance were substantially reduced. The result was that assessments in the Africville area and on some other properties within the City were reduced.

7. Why have not Africville residents been granted permits to improve their dwellings?

It is my understanding that few, if any, of the structures within the area which we have defined as Africville had been built in the first instance under authority of properly approved Building Permits. City records indicate that in the early 1950's approximately sixteen (16) applications were made for Building Permits, twelve of which were for repairs and four for new structures. All but one of the permits were issued as requested.

In latter years the practice of applying for and issuing of Building Permits appears to have reverted to the practice in effect previous to 1950. There appear to be few, if any, Building Permits requested and certainly none have been issued.

If a Building Permit were applied for today it might or might not be issued. The responsibility for issuing such a permit rests with the Building Inspector. The probability is that the Building Inspector would refuse to issue such a permit and his reasons for so doing would be one or both of the following:

1. Properties are not serviced by piped water or piped sewer. It is not the practice in the City of Halifax to issue permits if either of these essential services is missing. The Health Committee is the only authority to issue a permit in the non-use of public sewer.

2. If a building is to be repaired or altered the work done on the building must be sufficient to bring that building to the minimum standards required under Ordinance 50. A Building Permit can only be issued for this type of repair providing the total amount to be expended is not in excess of 50% of the value of the property as determined by the Building Inspector.

If the cost of repairs or alterations is in excess of 50% of the building as determined by the Building Inspector, the repaired building must meet the standards of construction imposed on all new structures. In effect, it would be the opinion of the Building Inspector that Building Permits could only be issued if the proposed alterations resulted in the new structure meeting new construction standards.

If a Building Permit is applied for and is refused by the Building Inspector the citizen has the right to appeal the Building Inspector's refusal to the Committee on Works of the City Council.

8. What will happen to people who do not have evidence of clear titles to lands which they possess? In what way will they be compensated?

The situation in respect of title in the Africville area appears to fall into three general categories:

- (a) Persons who have a paper title to their property.
- (b) Persons who have possessory title to their property.
- (c) Persons who have no apparent legal claim to title.

Persons in Categories (a) and (b) above are, of course, entitled to full legal compensation for their lands. Any person who has a proven title whether by way of registered deed or through possessory title has a claim against the expropriating authority for just compensation. The City would be required and would, in fact, feel obligated to pay the full market value for these particular properties. These market values would, as previously mentioned, be determined by independent appraisal.

Persons in Category (c) above would not have any legal claim to compensation. The City could, in fact, expropriate these properties and place the onus for proof of ownership on the persons concerned. If these persons could not prove a legal right of ownership, the City would not be required to compensate them.

8. In view of the fact that there are families in this position in Africville and because of the special consideration being given Africville, the City has taken the position that it may have a moral obligation to pay some compensation in these cases. It has been suggested that those with an apparent ownership but with no legal claim should be made a gratuitous payment of \$500 in return for vacant possession of the property.

In essence, the City is prepared and required to compensate at market value any persons with a legal claim to title. A gratuitous payment would only be made to those with an apparent ownership but no legal claim.

9. Does the City intend to buy properties solely in terms of their current assessed values?

The City cannot compensate on the basis of assessed values. These values are not normally accepted by the Courts in determining claims for compensation.

As previously mentioned, compensation to owners with a legal claim is based upon the market value of the property in use. The City's offers to such owners are based upon independent appraisals obtained by the City. In order to insure the fairness of the City's offer, many owners obtain their own independent valuation.

10. Would it be possible for the City to convey to Africville residents a sum of money that would enable them to make down-payments on new homes?

The City normally compensates owners to the full extent of the value of the property taken from them. In the case of Africville, it has been suggested that this normal procedure will be followed. It has been suggested in addition that a gratuitous payment of \$500 should be made to those with a moral but no legal claim for compensation.

The amount of money to be paid to the residents of Africville in compensation for properties acquired by the City should, in many instances, be sufficient to make a down-payment on a new home. Persons with a legal claim to a substantial area of land occupied by reasonably large buildings could expect to be paid more than persons with no claim of ownership on either lands or buildings. The gratuitous payment of \$500 to those who have no claim on title would not normally be sufficiently large to cover the down-payment on a new home.

11. Would it be possible for Africville residents to be relocated on land near, but separate from, the Industrial Mile area?

The answer to this questions falls into two general categories--rental and home ownership. The answers are very complex and involve several fundamental issues. I am attaching for your information a copy of the Uniacke Square Redevelopment Area report which deals in specific terms with these complexities. Outlined below are some general comments:

A. RENTAL

It was suggested in the original report that some of the families in Africville would be unable financially to own new homes of their own or to occupy rental accommodation at full economic rents. These families might in fact wish to take advantage of the subsidized rental housing now being offered by the City to families displaced by redevelopment.

Outlined below are some of the more pertinent points in respect of subsidized rental housing:

1. Rentals are based upon the total income of the family. This total income is considered to be the income of the head of the house, a working wife, resident children over 25, and up to \$75 per month of resident children 25 or under who are working. Shelter rentals approximate 20%-21% of the gross family income. The cost of heat, hot water, etc., if supplied, is additional.
2. The subsidized rental projects are constructed in partnership with the Provincial and Federal Governments and are amortized over a period of up to 50 years. The average rental required to be obtained on each unit in the average project in order to meet the costs of operation and to write off the costs of investment is between \$85-\$90 per month. This does not include the cost of heat, hot water, etc., if these are provided.
3. The Partnership of the Federal-Provincial-Municipal Government is prepared to subsidize each rental housing unit to an average of \$25-\$30 per unit per month. The apartments or housing units within the project must, therefore, be rented in such a manner as to attain an average rental return of about \$55-\$60 per month. This means that for every low income family admitted to the project, a family of higher income must be admitted.

11. A. RENTAL (cont'd)

In order to establish a subsidized rental project for the residents of Africville in the area of Africville, it would be necessary to prove that the incomes of those who wished admission to the project were such as to provide an average rental return, excluding services, of \$55-\$60 a month. It would seem that such a rent level might be difficult to attain. On the other hand, the lower income people from the Africville area could go into one of the existing or contemplated subsidized rental projects without affecting the rent levels. If these families were unable to meet the average required rental, this average could still be attained by admitting higher income groups from other areas.

B. HOME OWNERSHIP

There may be those in the Africville area who would be interested in re-establishing in homes of their own. It might be possible to find land in the northern part of the City which is zoned for and could be developed for residential use. This would, of course, necessitate the provision of proper streets and municipal services.

There is no way that we have been able to determine in which home ownership can be subsidized with equity to all. The Uniacke Square report deals at some length with this problem. Home owners generally seem to prefer to be able to choose their own location rather than to have such locations imposed by Government. Without subsidization, home owners can probably make a better deal by themselves than they could by proceeding with the direct assistance of any level of Government.

It occurs to me that the questions asked by your Committee tend to emphasize the assessment practices of the City as they apply to the Africville area. Presumably, these questions are directed in an attempt to use the answers in proving title to specific properties. I do not feel, however, that this is the case.

Even if the answers do tend to prove title, I feel your Committee should not lose sight of the fact that assessments are only one part of our taxing procedure. Some time ago we provided you with a list of the tax arrears for Africville. I think you will note from this that the total amount of tax arrears in the area amounts to approximately four times the annual charges. As you are aware, the City has the right to exert tax liens and sell properties at a tax sale where arrears are outstanding.

I could, of course, dwell at much greater length on the answers to some of the questions that you have placed before me. I feel, however, that the answers given are of sufficient length to permit basic consideration by your group. If you require further information, please do not hesitate to get in touch with me.

It is my understanding that you wish to consider these questions with your Committee and with the residents of Africville. Following this, we could arrange for a further meeting with your Committee. I would hope that this further meeting could be arranged reasonably soon as it was my impression that our first meeting was most useful.

Yours very truly,

(signed): R. B. Grant
Development Officer

RBG/meb
Enclosures