

AUDITOR GENERAL

Halifax Regional Municipality

Audit & Finance Standing Committee

A Performance Review of Halifax Regional Municipality's Building Standards – Permits and Inspections[®]

July 2015

- Review of Regional Council's Understanding and Management of Risk.
- Need for Defined Outcomes to Manage Public Safety Risk.
- Lack of Risk-Based Strategy to Define Outcomes which Achieve Accepted Level of Risk.
- Lack of Standardized Procedures and Documentation.
- Need for Defined Outcomes to Demonstrate Value for Money.
- Lack of Appropriate Performance Monitoring.

- Review period covered April 2012 to March 2014.
- Excluded M100 By-Law compliance and other By-Laws related to minimum standards investigations (unsightly premises etc.).
- Review included the following HRM processes for new construction, renovations and demolitions of single-unit residential, multi-unit residential, commercial, industrial and institutional buildings:
 - Permit applications
 - Issuance of permits
 - Inspections of building or demolition progress
 - Closing of permit applications.

- As a result of initial environmental scan, the OAG concluded focus of the report would be risk.
- Risk was reviewed from perspective of two similar but different objectives:
 - Risk associated with public safety-considered from a liability and reputational perspective
 - Risk that Management cannot demonstrate the level of value for money being achieved.

Regional Council's Understanding and Management of Risk

- Kaplan defines risk in the context of one of the following:
 - Preventable risks
 - Strategic risks
 - External risks.

- Risks associated with Building Standards fall into preventable category.

- It is the view of the OAG, preventable risks are managed through a rules-based approach.

Regional Council's Understanding and Management of Risk

- Provincial governing legislation is in place and Regional Council is specifically tasked with oversight of adherence to the Nova Scotia Building Code Act.
- Section 5(1) states:
“The council of a municipality is responsible for the administration and enforcement of this Act in the municipality”.
- In previous reports the OAG focused on the quality of Management's identification, articulation and mitigation of risk.
- The OAG believes HRM's approach to risk has to be different when there are legislated responsibilities.

Need for Defined Outcomes to Manage Public Safety Risks

- The OAG is unsure what level of risk is acceptable. Some might say to limit the risk to public safety from unsafe construction to zero would mean to eliminate construction altogether which, of course, is not practical.
- The OAG suggests Regional Council must define the acceptable level of public safety risk and then determine what the outcomes of the program should be to bring to public safety risk down to the accepted level.
- If this level is not defined there is the possibility a disconnect will occur between the level of risk accepted by the oversight body (Regional Council) and the Division responsible for the delivery of the program.

Balancing Risk with Cost of Resources

- While the objective of the Building Code Act and the Division's mandate is clear, the scope of it is so wide the key challenge for HRM Management and Regional Council is to balance the amount of risk with the resources devoted to inspection and enforcement activities.
- HRM, through Regional Council and its Building Standards Division, is responsible for using the resources available to generate optimal enforcement of the Act.
- Key challenge is to balance the risk with the limited number of people and resources devoted to inspection and enforcement activities.
- HRM must define what is considered optimal enforcement and be able to demonstrate the Municipality is using the limited resources available in the most efficient and economical way to achieve this level of enforcement.

Balancing Risk with Cost of Resources

- The OAG believes in order to have optimal enforcement with limited resources the division must focus on the key risks of program delivery.
- The OAG has identified there is no documented risk-based strategy for the division. In fact, the OAG was unable to locate any recent documentation where Regional Council has provided strategic direction for HRM's approach to building standards.
- As a result, the Division is providing outputs but it is not clear whether these outputs are adequately administering and enforcing the Building Code Act in the Municipality to a level approved by the oversight body.

Effect of Oversight on Managing Preventable and Strategic Risks

- Without clearly defined outcomes, it is more difficult for Management to make appropriate strategic decisions.

- After reviewing specific processes of the Division the OAG believes there are key risk areas which are not being adequately addressed by the Division, the OAG provides the following examples:
 - Construction without a permit
 - No standard inspection practice
 - Level of supervision
 - No defined process to identify high-risk construction

Construction Without a Permit

- The OAG was advised there is an informal practice of identifying properties for potential unpermitted construction; however it is impossible for building officials to be everywhere to prevent people from circumventing the system.
- Currently HRM does not estimate the amount of unpermitted construction and has not determined if there should be specific resources assigned to identifying and addressing this risk.

No Standard Inspection Practice

- In discussions with Management, the OAG was advised of the following related to the inspection classifications/statuses:
 - Pass - complies with standard, no re-inspection required
 - Partial Pass - can require re-inspection or additional information. If “complies except as noted” is indicated no re-inspection is required as it meets the minimum standard
 - Fail - requires re-inspection

- During a review of a sample of application files, the OAG found inconsistencies in the documentation maintained. In some files reviewed it was not clear why the project phase required re-inspection and in some cases there was no indication of why the inspection partially passed but did not require re-inspection.

No Standard Inspection Practice

- Currently HRM does not have a standard around the practice of documenting inspections.
- The OAG is concerned without a standard practice for documentation of the inspection process, one of two possibilities can take place:
 - Omission of a step may not be identified, or
 - A proper and complete inspection could be performed but HRM would be unable to support this position with standard and consistent documentation.
- The OAG believes in order to demonstrate the appropriate administration and enforcement of the Act, standardized documentation practices are necessary.

Level of Supervision

- The OAG was advised there is professional judgment used in the inspection process and heavy reliance on building officials to provide high quality, consistent inspections.
- Without appropriate levels of supervision or peer review it is difficult to determine if inspections are consistent or if performance issues exist.
- There is a risk inspections are not consistent amongst building officials, required processes are not being completed or properly documented and inspections may not be of the expected quality.

No Defined Process to Identify High-Risk Construction Projects

- There is no documented methodology of how to identify high-risk projects/situations or a documented process of how to proceed.
- Based on the OAG sample of application files, some building officials do a good job of making notes and frequently visiting the job site of a difficult project or a project in which they have identified issues but this is still based on 'feel' rather than a documented practice.
- There is no process in place to ensure additional levels of oversight will occur in all high-risk cases and resources will not be available to satisfy the increased level of due diligence required.

- The OAG believes in order to deliver the service effectively, with limited resources, the development and documentation of a risk-based service delivery strategy is necessary.
 - This involves identifying the key risks and creating a strategy to address these risks.

- This process would allow Regional Council and Management to analyze the currently available resources against required resources and identify any potential gaps thus ensuring there is sufficient staff to deliver the planned service both for the short-term and long-term.

Effect of Oversight on Managing Preventable and Strategic Risks

- Other issues identified by the OAG :
 - Lack of documented procedures manual
 - Need for standardized documentation
 - Inconsistent documentation of deficiencies
 - Lack of a formal file review.

Lack of Documented Procedures Manual

- The Building Standards Division does not have a documented procedures manual which would assist with the following:
 - Knowledge transfer to new employees, a baseline for continuous improvement and a tool for risk management.
 - A standard of performance for all building officials to ensure consistency and thoroughness in their inspections.

- The current directives and procedures which are used in support of the inspection process are not organized following a formal records management policy. The current system may be adequate for current staff; however, it will be difficult to maintain consistency with new employees if the directives are not well organized.

Need for Standardized Documentation

- There are no standardized requirements for file documentation in the Building Standards Division; this was confirmed by Management.
- Management indicated checklists were only developed because some building officials found it easier to complete the inspection through their use.
- Records in the Building Standards Division are kept as either electronic or paper files; neither is required to include any specific documentation.
- Given the level of inconsistency between the paper and electronic files, the OAG questions if all inspection files have sufficient information representing the entire inspection process.

Need for Standardized Documentation

- In order for Management to be able to effectively monitor the building inspection process, files should include sufficient documentation (whether electronic or paper) to represent the entire inspection process and the required information be consistent from file to file.

Inconsistent Documentation of Deficiencies

- The OAG found inconsistencies in how inspection notes and deficiencies were recorded and cleared in both the paper and electronic portions of the files.
- The OAG questions how a follow-up building official could possibly know why a previous inspection failed if deficiencies are not being consistently and adequately disclosed in the inspection files.
- Management indicated the follow-up building official has to complete the full inspection again if specific deficiencies have not been made clear. The OAG also questions the efficiency of this type of practice.

Lack of File Review

- There is also no documented file review (electronic or paper) by a supervisor or administrative support. Without an adequate file review, it is difficult to determine quality and consistency of inspection practices.
- Could lead to inability to ensure expected quality of service and provide evidence of adequate due diligence procedures.
- The need for consistency of performance is important to protect against potential liability as inspection decisions can be compared against a standard and easily understood.
- There is a risk a particular building official who did not follow the HRM required practices will not be identified through current practices. If the level of performance varies, it becomes difficult to demonstrate due diligence and the risk to the Municipality is increased.

Need for Defined Outcomes to Demonstrate Value for Money

- OAG suggests Regional Council is also responsible for the oversight of the practices established by the Building Standards Division not only to ensure public safety and mitigate risk of unsafe construction but also to demonstrate value for money through the Building Standards inspection program.
- Defined outcomes of the program would provide specific criteria against which the effectiveness of the program can be measured.

Need for Defined Outcomes to Demonstrate Value for Money

- The National Building Code states:

“An objective of this Code is to limit the probability that, as a result of the design, construction or demolition of the building, a person in or adjacent to the building will be exposed to an unacceptable risk of injury”.

- HRM has established a Building Standards Division which processes an average of 4,000 permits and conducts approximately 25,000 inspections and reviews annually. These are outputs.
- The OAG believes however, without a specific strategy, it is not clear how these outputs are linked to Council Priority Outcomes and therefore value for money cannot be accurately measured.

Demonstrating Performance- Value for Money

- The OAG believes a key part of achieving value for money is monitoring performance. Monitoring performance examines the actual outputs being produced against the stated outcomes and measures the level of achievement to performance targets.
- Key performance indicators (KPIs) should be designed to capture performance. There should also be processes in place to facilitate corrective action if required, such as training.
- During the review, the OAG identified areas where improvements are required to demonstrate value for money is being achieved:
 - Lack of appropriate performance monitoring
 - Inadequate management of open applications
 - Management of training requirements to meet strategic needs.

Lack of Appropriate Performance Monitoring

- The Building Standards Division has KPI's related to:
 - Value of construction,
 - Timeliness of inspections and
 - Application processing.

- The 'value of construction' KPI is not directly related to the building standards process and is more an indicator of the construction environment of HRM.

- When reviewing reports of other municipalities the OAG identified a common strategic goal for building standards divisions is to reduce the number of inspections requiring re-inspection.

- The OAG questions why the Division would not consider this an important goal.

Lack of Appropriate Performance Monitoring

- Available information can be used to track and trend which type of inspections, building officials, builders and construction types have high re-inspection rates. Monitoring and improving re-inspection rates would increase the efficiency of the Division and reduce costs to taxpayers.
- Some properties require re-inspections numerous times; one file reviewed required the framing to be re-inspected seven times.
- If a type of inspection is consistently requiring re-inspection, an effective use of resources could be to increase the education provided to builders on the items required for this inspection to be passed on the first review.

Inadequate Management of Open Applications

- Currently, the Building Standards Division has no KPIs related to file closing or inactive file maintenance.
- The Division reviews the electronic inspection files daily searching for expired permits and for files requiring action.
- There were 14,919 open building application files in the Hansen system as of September 2014. Of those files, more than 4,600 were over five years old. Management indicated some of the open files may require further action from Development Approvals since they use the same system.

Inadequate Management of Open Applications

- The OAG understands there are valid reasons why files could remain open, but the volume of open files and the length of time files stay open is concerning. Management should be able to easily identify why files remain open so responsibility can be assigned.
- If the Division cannot confidently identify the status of all files, the OAG questions the ability of the Division to demonstrate it is effectively administering the Building Code Act and demonstrating value for money.

Managing Training Requirements to Meet Strategic Needs

- When discussing training availability with Management, it was brought to the attention of the OAG the higher-level courses for certification are not offered as often as lower-level courses, as the Nova Scotia Building Officials Association (NSBOA) is a provincial association and these courses are not as in-demand for rural building officials.
- Employees may be waiting long periods of time before being able to obtain required certification courses due to their availability and therefore, HRM is at risk of not having enough employees at each certification level to complete the required inspections based on the type of construction taking place within HRM.

Managing Training Requirements to Meet Strategic Needs

- HRM has not developed a recruitment and retention strategy to ensure an appropriate number of building officials is maintained at each level.
- Failing to plan resources and ensure training is available to meet the needs of the Municipality places the Municipality at risk of not being able to demonstrate the effectiveness of the program.
- If there are not enough building officials at the required levels, HRM may not be able to meet the established service standards. This lack of resource planning is concerning to the OAG.

Key Recommendations

- 1.0.1 The OAG recommends Regional Council seek legal advice regarding requirements for the administration and enforcement of the Building Code Act and clearly define the level of risk it is prepared to accept.
- 1.0.2 The OAG recommends Regional Council request, from Management, the current practices of the Building Standards Division to assess the current strategy and processes of the Division with the goal to develop a strategic direction and defined outcomes for the Division based on the level of public safety risk Regional Council is willing to accept.

Key Recommendations

- 1.0.3 The OAG recommends once Recommendation 1.0.2 is implemented, Regional Council request annual updates from the Building Standards Division on their ability to achieve the outcomes as defined by Regional Council.

- 2.0.1 The OAG recommends HRM Administration document the key risks of the Building Standards Division. These key risks should then be used to develop a service delivery strategy for the Division for the short-term and long-term, ensuring adequate resources are allocated to the key risk areas.

Key Recommendations

- 2.1.1 The OAG recommends HRM Administration ensure a procedures manual is created for the Building Standards Division. The manual should include all current procedures for completing inspections and managing files as well as all relevant directives.

- 2.1.2 The OAG recommends HRM Administration create a records management policy for storing documents within the Building Standards Division to ensure only the most current procedures and reference documents/forms are maintained.

Key Recommendations

- 2.2.1 The OAG recommends HRM Administration develop standards for file documentation in a procedures manual, whether electronic or paper.

- 2.2.2 The OAG recommends HRM Administration implement a practice of supervisor review of inspections and for documenting this review, prior to closing the file, to ensure all required documentation is included and deficiencies are adequately documented and cleared.

Key Recommendations

- 3.1.1 The OAG recommends HRM Administration review the current KPIs to ensure they are specifically related to performance and components the Building Standards Division can control.

- 3.1.3 The OAG recommends HRM Administration develop KPIs specific to the inspection process as a means of continuous improvement. One of these KPIs should be the number of re-inspections by inspection type, builder and building official.

- 3.2.1 The OAG recommends HRM Administration implement a records management process for inspection files from the time the application is received and processed until the point the file is closed. The current status codes should be reviewed and updated or redefined as part of this process so both the Building Standards and Development Approvals Divisions can actively manage files appropriately and consistently.

Key Recommendations

- 3.3.1 The OAG recommends HRM Administration work with other larger cities and NSBOA to provide more in-house courses to ensure employees are keeping pace with their training needs.

- 3.3.3 The OAG recommends HRM Administration develop a recruitment and retention strategy to ensure HRM has the optimal number of building officials at each level to satisfy both the current and expected future needs.

Management Response

Re: A Performance Review of HRM's Building Standards – Permits and Inspections

Dear Mr. Munroe:

I have reviewed the report, *A Performance Review of HRM's Building Standards – Permits and Inspections* submitted to me on August 11, 2015 by your office. I am in general agreement with its content and the direction proposed. As with previous reports released by your office, HRM Administration will take the recommendations under consideration and develop a work plan to address the main issues identified in the report.

The themes identified in the report are consistent with several approaches currently being undertaken by our Municipal Compliance section to improve service delivery. These approaches include:

- Development of a new data management system to improve work flow and further digitize information;
- Participation in the process being led by Corporate Information Management to improve the corporate records management system;
- Encouraging a more specific focus on workforce planning to enhance recruitment, training and retention in the Building Standards area; and
- Establishment of documented procedures in relation to risk management, key performance indicators (KPI's) and other processes.

As always, HRM Administration will continue to ensure the findings presented by your office are addressed in a coordinated and appropriate manner, and strive to continuously improve our processes and management in this and other areas of the organization.

Sincerely,

Original Signed

Richard Butts
Chief Administrative Officer

QUESTIONS