



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

Item 8.1.1
Appeals Standing Committee
June 8, 2017

TO: Chair and Members of Appeals Standing Committee

SUBMITTED BY: **ORIGINAL SIGNED**

Bob Bjerke, Chief Planner and Director, Planning & Development

DATE: May 25, 2017

SUBJECT: **Appeal Report – Case #280988 and 282093, PID 00421842, and Case #281072 for PID 00421834, Hammonds Plains**

SUPPLEMENTARY REPORT

ORIGIN

Staff, pursuant to 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. (attached as Appendix A)

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:

This report is addressing appeals for violations located at two separate properties; civic 1937 Hammonds Plains Road and an adjacent vacant lot (no civic address); both properties are owned by the same individual. There have been eleven dangerous or unsightly cases on these properties over the past three years.

From September 2015 to May 2016, the property owner had three appeals heard by the Committee for these same properties. The Committee heard the appeals on several dates and denied all three. The property owner completed the work and the cases were closed as owner compliance on July 31, 2016.

A new complaint was received by service request on September 13, 2016 and cases were opened. The complainant stated that, despite previous complaints, the property remains unsightly.

On October 10, 2016, the Compliance Officer issued the property owner three Orders for violations at the properties. The property owner appealed and the cases were heard at the January 12, 2017 Appeals Standing Committee meeting. The Committee deferred the case until the June meeting to allow the property owner additional time to complete the work.

This report will focus on the appeals dated October 10, 2016 by the property owner of the following: Case #280988 (debris) and Case #282093 (derelict vehicles) and Case #281072 (debris).

CHRONOLOGY OF CASE ACTIVITIES:

- 15-Sep-2016 The Compliance Officer conducted a site inspection at 1937 Hammonds Plains Road and PID 00421834, hereinafter referred to as “the properties” (attached as Appendix B and C) and noted an accumulation of debris and derelict vehicles.
- 03-Oct-2016 The Compliance Officer conducted a site inspection and noted the violations still exist. Three Orders were posted at the properties and copies were sent via registered mail to the property owner (attached as Appendix D, E and F).
- 04-Oct-2016 The Compliance Officer spoke to the property owner and discussed the requirements to bring the properties into compliance. The property owner advised he would like to purchase a shipping container and place it on the property to store these items. The Compliance Officer explained the requirements to obtain a permit for the shipping container and stated that the property owner should apply for a permit before proceeding.
- 10-Oct-2016 The property owner submitted a Notice of Appeal to the Municipal Clerk’s Office (attached as Appendix G).
- 11-Oct-2016 The Municipal Clerk’s Office sent the property owner a letter advising the appeals would be heard at the January 12, 2017 Appeals Standing Committee meeting.
- 13-Oct-2016 The Compliance Officer spoke with the property owner and reviewed what was required to bring the property into compliance. The property owner advised that he has appealed the Orders that were issued for the properties.
- 19-Dec-2016 The Compliance Officer conducted a site inspection and noted the violations still exist.
- 10-Jan-2017 The Compliance Officer conducted a site inspection and noted the violations still exist.
- 12-Jan-2017 The appeal was heard at the January 12, 2017 Appeals Standing Committee meeting. The Committee deferred the case to the June 8, 2017 meeting to provide the property owner with additional time to complete the work.

- 18-Jan-2017 The Municipal Clerk's Office sent the property owner a letter advising their case was deferred to the June 8, 2017 meeting. (Attached as Appendix H)
- 17-May-2017 The Compliance Officer conducted a site inspection and noted no change to the condition of the property.

FINANCIAL IMPLICATIONS

There are no financial implications if the owner complies with the Orders. 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 recommendation in this report. The risk consideration rates low.

ENVIRONMENTAL IMPLICATIONS

Avoids unsafe living conditions which aligns with Sustainability Principle #4 of the Corporate Sustainability Filter.

ALTERNATIVES

The state of the property suggests no viable alternative.

ATTACHMENTS

- Appendix A: Legislative Authority – *Halifax Regional Municipality Charter*
- Appendix B: Copy of the Nova Scotia Property Records Map for 1937 Hammonds Plains Road
- Appendix C: Copy of the Nova Scotia Property Records Map for PID 00421834
- Appendix D: Copy of the Order to Remedy dated October 3, 2016 for debris (case#280988)
- Appendix E: Copy of the Order to Remedy dated October 3, 2016 for derelict vehicles (case#282093)
- Appendix F: Copy of the Order to Remedy dated October 3, 2016 for debris (case#281072)
- Appendix G: Copy of the Notice to Appeal dated October 10, 2016
- Appendix H: Copy of the letter from the Clerk's Office dated January 18, 2017

A copy of this report can be obtained by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared For: Trevor Oliver, Compliance Officer, By-law Standards, 902.476.4257

ORIGINAL SIGNED

Report Approved By: _____
Tanya Phillips, Program Manager, By-law Standards, 902.476.6438

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:

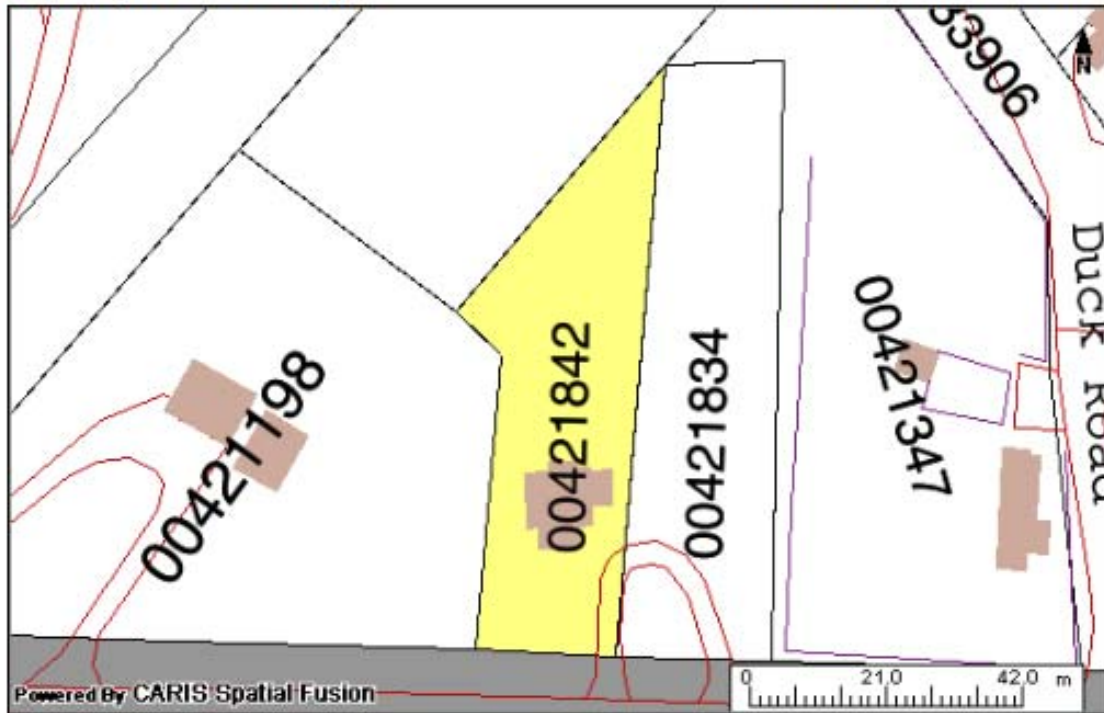
- (q) "dangerous or unsightly" means partly demolished, decayed, deteriorated or in a state of disrepair so as to be dangerous, unsightly or unhealthy, and includes property containing
- (i) ashes, junk, cleanings of yards or other rubbish or refuse or a derelict vehicle, vessel, item of equipment or 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: May 23, 2017 1:31:37 PM



PID:	00421842	Owner:	THOMAS MOORE	AAN:	02949822
County:	HALIFAX COUNTY		WILLIAM MOORE	Value:	\$136,500 (2017 RESIDENTIAL TAXABLE)
LR Status:	LAND REGISTRATION	Address:	1937 HAMMONDS PLAINS ROAD HAMMONDS PLAINS		

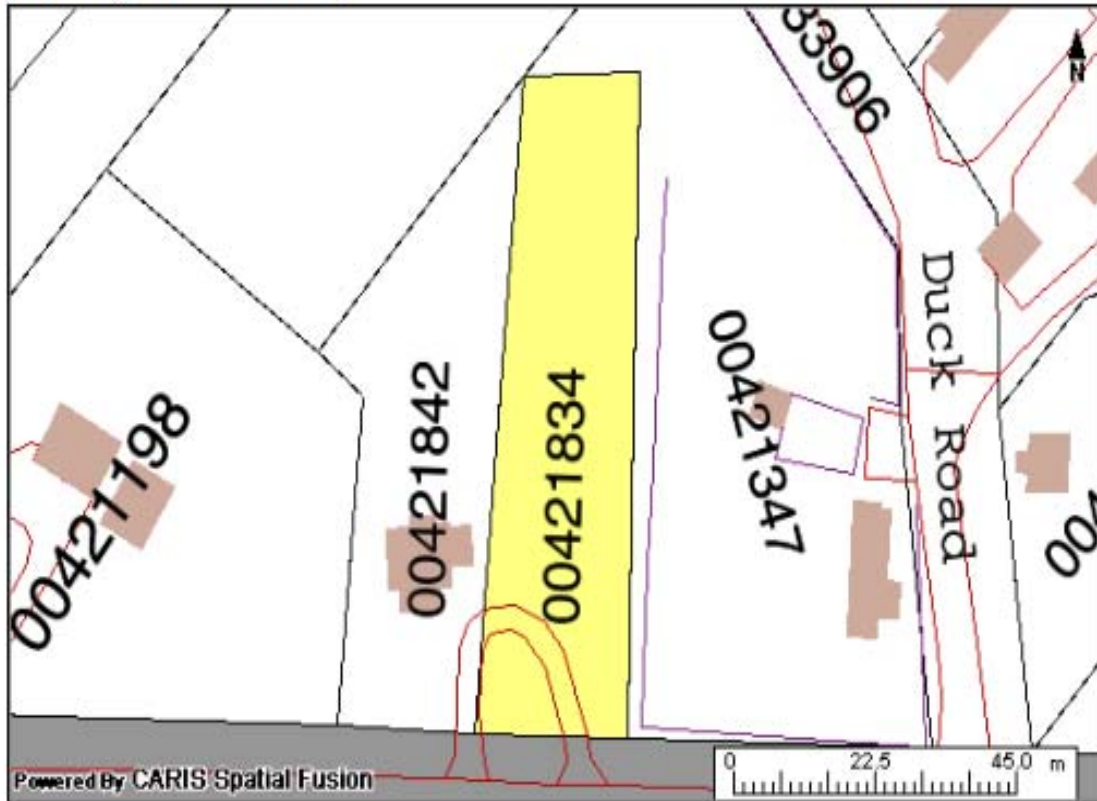
The Provincial mapping is a graphical representation of property boundaries which approximate the size, configuration and location of parcels. Care has been taken to ensure the best possible quality, however, this map is not a land survey and is not intended to be used for legal descriptions or to calculate 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.

APPENDIX C



Property Online Map

Date: May 23, 2017 1:34:25 PM



PID:	00421834	Owner:	THOMAS MOORE WILLIAM MOORE	AAN:	02949849
County:	HALIFAX COUNTY	Address:	HAMMONDS PLAINS ROAD HAMMONDS PLAINS	Value:	\$73,000 (2017 RESIDENTIAL TAXABLE)
LR Status:	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.

APPENDIX D

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 1937 HAMMONDS PLAINS RD, HAMMONDS PLAINS,
NS,
PID # 00421842 Tax # 2949822 Case # 280988

Hereinafter referred to as the "Property"

TO: WILLIAM MOORE
1937 HAMMONDS PLAINS RD, HAMMONDS PLAINS, NS, B4B 1P4
THOMAS MOORE
1937 HAMMONDS PLAINS RD, HAMMONDS PLAINS, NS, B4B 1P4

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 assorted construction materials, siding, insulation, scrap wood, metal, plastic, tools, glass, windows, doors, tarpaulin, carpet, cardboard, bottles, buckets, automotive parts, wheels, tires, litter 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 assorted construction materials, siding, insulation, scrap wood, metal, plastic, tools, glass, windows, doors, tarpaulin, carpet, cardboard, bottles, buckets, automotive parts, wheels, tires, liter 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 3rd of October, 2016 AD.

TREVOR OLIVER
COMPLIANCE OFFICER
Phone: (902)476-4257 x


ERIN DOBSON
Administrator
Halifax Regional Municipality

APPENDIX E



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 1937 HAMMONDS PLAINS RD, HAMMONDS PLAINS,
NS,
PID # 00421842 Tax # 2949822 Case # 282093
Hereinafter referred to as the "Property"

TO: WILLIAM MOORE
1937 HAMMONDS PLAINS RD, HAMMONDS PLAINS, NS, B4B 1P4
THOMAS MOORE
1937 HAMMONDS PLAINS RD, HAMMONDS PLAINS, NS, B4B 1P4

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

AND WHEREAS located on the Property is an unsightly or dangerous condition due to a black Dodge Raider and a stripped black motorcycle are deemed derelict due to the fact that they appear to be disused or abandoned by reason of their age, appearance, mechanical condition or their lack of licence plates 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 black Dodge Raider and the black stripped motorcycle, 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 3rd of October, 2016 AD.

TREVOR OLIVER
COMPLIANCE OFFICER
Phone: (902)476-4257 x

Original Signed
ERIN DOBSON
Administrator
Halifax Regional Municipality

APPENDIX F

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 PID # 00421834, HAMMONDS PLAINS, NS
PID # 00421834 Tax # 2949849 Case # 281072

Hereinafter referred to as the "Property"

TO: WILLIAM MOORE
1937 HAMMONDS PLAINS RD, HAMMONDS PLAINS, NS, B4B 1P4
THOMAS MOORE
1937 HAMMONDS PLAINS RD, HAMMONDS PLAINS, NS, B4B 1P4

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 assorted construction materials, beams, tools, scrap wood, metal, plastic, insulation, oil tank, tarpaulin, automotive parts, buckets, litter 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 assorted construction materials, beams, tools, scrap wood, metal, plastic, insulation, oil tank, tarpaulin, automotive parts, buckets, litter 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.

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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 3rd of October, 2016 AD.

Original Signed

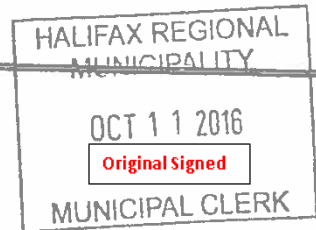
TREVOR OLIVER
COMPLIANCE OFFICER
Phone: (902)476-4257 x

ERIN DOBSON
Administrator
Halifax Regional Municipality

APPENDIX G

Stewart, April

From: Thomas Moore [REDACTED]
Sent: October-10-16 10:18 PM
To: Office, Clerks
Subject: Appeals



I am writing to appeal case #281072, 282093 n 280988. Please contact me with any questions, and when a date has been set for the matter.

Best regards,
Thomas Moore

VALID

APPENDIX H

CANADA POSTES POST CANADA		REGISTERED DOMESTIC CUSTOMER RECEIPT	RECOMMANDÉ RÉGIME INTÉRIEUR REÇU DU CLIENT	R
To Name	Destinataire Nom	FOR DELIVERY CONFIRMATION		
Address	Adresse	CONFIRMATION DE LA LIVRAISON		
City / Prov. / Postal Code	Ville / Prov. / Code postal	www.canadapost.ca or/ou www.postescanada.ca		
Declared Value	Valeur déclarée \$	1 888 550-6333		
33-086-584 (14-06)		CPC Tracking Number Numéro de repérage de la SCP		
		RN 190 914 418 CA		

REGISTERED MAIL

January 18, 2017

Mr. Thomas Moore
1937 Hammonds Plains Road
Hammonds Plains B4B 1P4

Re: Cases 280988 and 282093, PID 00421842, and Case 281072, PID 00421834, Hammonds Plains

Mr. Moore:

In follow up to our letter dated January 13, 2017, this letter is to clarify that your appeal has been deferred to **June, 8, 2017**, to allow you additional time to bring the orders into compliance.

Please arrive at the Council Chamber, 3rd Floor, City Hall, 1841 Argyle Street, Halifax for 10 a.m., but note that there may be other cases heard before yours on the agenda.

The staff report for these cases will be posted online to the Appeals Standing Committee agenda page by end of day Thursday, June 1, 2017. <http://www.halifax.ca/boardscom/SCappeals/index.php> If you require a hard copy of the report, please contact our office.

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 902-490-6519.

Sincerely,

Original Signed

Krista Vining
Legislative Assistant
Office of the Municipal Clerk

cc: Tanya Phillips, Manager, By-law Standards
Scott Hill, Supervisor, Regional Compliance
Erin Dobson, Supervisor, Support Services
Natalie Matheson, Adjudication Clerk
Trevor Oliver, Compliance Officer
Randy Kinghorne, Senior Solicitor, HRM Legal Services

Enclosure: Order of Proceedings for Appeals Standing Committee

HALIFAX

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

halifax.ca