

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

Item 8.1.1
Appeals Standing Committee
July 13, 2017

TO: Chair and Members of Appeals Standing Committee

SUBMITTED BY: **ORIGINAL SIGNED**

Bob Bjerke, Chief Planner and Director, Planning & Development

DATE: June 27, 2017

SUBJECT: **Appeal Report – Case # 229928, 32 Elwin Crescent, Dartmouth**

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:

There was one previous dangerous or unsightly case for this property. The owner complied and the case was closed as owner compliance.

A subsequent complaint was received through a service request on May 6, 2014. The complainant was concerned about the lack of exterior maintenance to the main building as there were signs of rotten siding, stairs and fencing.

On May 7, 2014, the Compliance Officer conducted a site inspection at 32 Elwin Crescent, Dartmouth, hereinafter referred to as the “property” (attached as Appendix B). The property owner was on site and the Compliance Officer discussed the requirements to bring the property into compliance.

On July 16, 2014, the Compliance Officer conducted a site inspection and noted that the property owner had begun scraping the building.

On September 19, 2014, the Compliance Officer met with the property owner on site. The property owner advised that they obtained three quotes and were going to install siding to the house.

On June 8, 2015, the Compliance Officer inspected the property. The Compliance Officer noted that the property owner had completed additional painting work to the building and did not install any siding.

On June 26, 2015, the Compliance Officer issued a 60-day Notice of Violation to the property owner (attached as Appendix C). The Compliance Officer conducted several site inspections over the summer months in that year and noted that the property owner was making progress but was unable to complete the work.

On June 6, 2016, the Compliance Officer issued a 60-day Order to Remedy (attached as Appendix D) to the property owner.

The case was scheduled for the August 4, 2016 Appeals Standing Committee meeting however the case was deferred until the September 8, 2016 meeting at the request of the property owner.

The case was scheduled for the September 8, 2016 Appeals Standing Committee meeting however the case was deferred until the October 6, 2016 meeting at the request of the property owner.

The case was heard at the October 6, 2016 Appeals Standing Committee meeting. The appeal was denied. The property owner contacted the Municipal Clerk’s Office and requested the matter be reconsidered.

On January 12, 2017, the Appeals Standing Committee heard the request for reconsideration. The Committee deferred the case to the June 8, 2017 meeting to allow the property owner additional time to bring the property into compliance.

Due to inclement weather, the case was scheduled to the July 13, 2017 Appeals Standing Committee meeting.

CHRONOLOGY SUBSEQUENT TO THE JANUARY APPEALS STANDING COMMITTEE MEETING:

11-May-2017 The Compliance Officer conducted a site inspection and noted the violation still exists.

18-May-2017 The Compliance Officer conducted a site inspection and noted no change to the condition of the property. The Compliance Officer spoke to the property owner and discussed the work required to bring the property into compliance. The property owner stated that their spouse did not plan on completing the work and that the property owner did not have time to complete the work.

The Compliance Officer advised the case would be scheduled to the July 13, 2017 Appeals Standing Committee meeting. The Compliance Officer asked the property owner to contact them if the work was completed prior to this date.

23-May-2017 The Municipal Clerk's Office sent the property owner a letter advising the case would be heard at the July 13, 2017 Appeals Standing Committee meeting (attached as Appendix E).

23-Jun-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 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 risks considered rate low.

ENVIRONMENTAL IMPLICATIONS

The report addresses a community complaint regarding an unsightly violation. There are no environmental implications.

ALTERNATIVES

- To allow the appeal before the Appeals Standing Committee
- Or
- To uphold the decision of the Administrator and deny the appeal.

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 June 26, 2015
Appendix D: Copy of the Order to Remedy dated June 6, 2016
Appendix E: Copy of the letter from the Clerk's Office dated May 23, 2017

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: Henry Boutilier, Compliance Officer, Bylaw Standards, 902.476.9205

ORIGINAL SIGNED

Report Approved by: _____
Tanya Phillips, Program Manager, By-Law Standards, 902.490.4491

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.

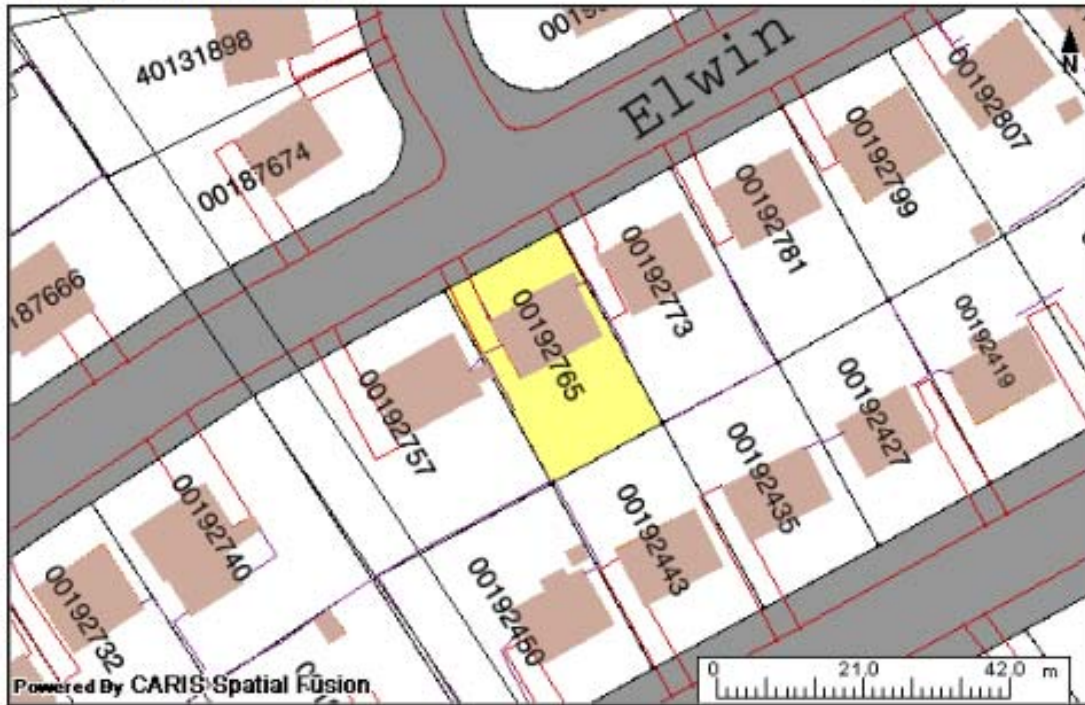
HRM Charter, subsection 3(q) as follows:

- (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: Jun 26, 2017 11:10:49 AM



PID:	00192765	Owner:	MAURITA L RICHEY	AAN:	04972252
County:	HALIFAX COUNTY	Address:	32 ELWIN CRESCENT	Value:	\$194,900 (2017 RESIDENTIAL TAXABLE)
LR Status:	NOT LAND REGISTRATION		DARTMOUTH		

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.

Property Online version 2.0

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APPENDIX C



By-Law Standards

Notice of Violation

The Property at (posted civic address): 32 Elwin cres
DARTMOUTH

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

- | | |
|----------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
| <input type="checkbox"/> HRM By-law C-500 Vending | <input type="checkbox"/> HRM By-law S-800 Temporary Signs |
| <input type="checkbox"/> HRM By-law S-300 Streets | <input type="checkbox"/> HRM By-law C-300 Civic Addressing |
| <input type="checkbox"/> HRM By-law S-600 Solid Waste | <input type="checkbox"/> HRM By-law T-1000 Taxi & Limousine |
| <input checked="" type="checkbox"/> HRM Charter, Part XV Respecting Dangerous or Unightly Premises | <input type="checkbox"/> Other: _____ |

Details of violation(s):
EXTERIOR MAINTENANCE of Home chipped and peeling PAINT

Violation(s) to be rectified as per the following:
Scrape and Paint Home including Soffit and fascia

You, the Property Owner, are requested to bring the Property into compliance. Failure to comply with this Notice may result in the Halifax Regional Municipality Ordering you to comply, remedying the violation at your expense and/or issuing a Summary Offence Ticket.

Notice of Re-Inspection:

A property inspection will be performed on Aug 26 15 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.

HENRY BOUTILIER
Issuing Officer

(902) 476-9205
Issuing Officer Phone Number

Original Signed
Issuing Officer Signature

26 06 15
Date (dd/mm/yy)

13:35
Time (hh/mm)

229928
Case Number

For information on municipal legislation visit the HRM Website at www.halifax.ca/legislation or call the HRM Citizen Contact Centre at 311. If outside HRM but in NS call 1-800-835-6428 toll free.

APPENDIX D

HALIFAX

HALIFAX REGIONAL
MUNICIPALITY
JUN 06 2016
Original Signed
MUNICIPAL CLERK

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 32 ELWIN CRES, DARTMOUTH, NS,
PID # 00192765 Tax # 4972252 Case # 229828
Hereinafter referred to as the "Property"

TO: MAURITA L RICHEY

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

AND WHEREAS located on the Property is an unsightly or dangerous condition due to a lack of exterior maintenance resulting in chipped and peeling paint and rotten wood components on the exterior of the home including the window and door trims, fascia, soffit and exterior walls, 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 rotten wood components and scraping and painting the exterior of the home including the window and door trims, fascia, soffit and exterior walls, 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 sixty (60) 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 in default of payment to imprisonment for a period of not more than two (2) months and every day during which the condition is not remedied is a separate offense.

DATED at Halifax, Nova Scotia this 6th of June, 2016 AD.

Original Signed

HENRY BOUTILIER
COMPLIANCE OFFICER
Phone: (902)478-9205 x

ERIN DOBSON
Administrator
Halifax Regional Municipality

APPENDIX E

CANADA POST / CANADA POST		REGISTERED DOMESTIC CUSTOMER RECEIPT	RECOMMANDÉ RÉGIME INTÉRIEUR REÇU DU CLIENT	R
To / Destinataire	Name / Nom	1 888 550-6333		
Address / Adresse	Adresse	1888 550-6333		
City / Prov. / Postal Code	Ville / Prov. / Code postal	1888 550-6333		
Registered Mail / Lettre recommandée	\$	RN 190 914 293 CA		
33-000-584 (14-06)				

REGISTERED MAIL

May 23, 2017

Ms. Lorraine Richey
c/o Mr. David Richey

RE: Case #229928, Property located at 32 Elwin Crescent, Dartmouth

This is to confirm that your appeal has been rescheduled and will now be heard by the Appeals Committee on Thursday, July 13, 2017. The hearing will be held in the Council Chamber, 3rd Floor, City Hall, 1841 Argyle Street, Halifax. Please arrive for 10 a.m., but note that there may be other cases heard before yours on the agenda.

The staff report for this case will be posted online to the Appeals Standing Committee agenda page by end of day Thursday, July 6, 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 your request for reconsideration. Please note that your representative is required to have a letter signed by you giving permission. If neither you nor a representative appears, the request for reconsideration will not proceed.

If you have any questions regarding this process, please contact me at 902-490-6519.

Sincerely,

Original Signed

for
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
Henry Boutiller, Compliance Officer
Randy Kinghome, HRM Senior Solicitor

HALIFAX

Halifax Regional Municipality
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Canada B3J 3A5

halifax.ca