



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

Appeals Standing Committee
August 2, 2018

TO: Chair and Members of Appeals Standing Committee

Original Signed

SUBMITTED BY:

Kelly Denty, Director, Planning & Development

DATE: July 24, 2018

SUBJECT: Appeal Report – Case #310419, PID 40200065, Clam Harbour Road, Clam Bay

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 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 no previous dangerous or unsightly cases at this property.

A complaint was received by service request on May 3, 2018. The complainant stated concerns of an old barn that was collapsed and contained debris. A second service request was received on May 11, 2018 citing the same issue.

This report will focus on the appeal dated June 27, 2018 by the property owner of the Order to Remedy for debris under Case #310419 issued on June 20, 2018.

CHRONOLOGY OF CASE ACTIVITIES:

- 10-May-2018 The Compliance Officer conducted a site inspection at PID 40200065, Clam Harbour Road, hereinafter referred to as “the property” (attached as Appendix B).

The Compliance Officer noted a collapsed old barn containing an assortment of debris. In the rear of the property, there were tires, rusted cans, car seats/parts and rusted metal.
- 11-May-2018 The Compliance Officer contacted the property owner and advised of the violations at the property. The property owner advised the Compliance Officer that they would try to complete the work.
- 15-May-2018 A Notice of Violation (attached as Appendix C) was sent to the property owner via registered mail.
- 15-Jun-2018 The Compliance Officer conducted a site inspection and noted a minimal amount of work had been completed; violations remain.
- 20-Jun-2018 The Compliance Officer posted a 30-day Order to Remedy (attached as Appendix D) on the property. A copy was sent via registered mail to the property owner.
- 27-Jun-2018 The Compliance Officer spoke to the property owner and advised the violation remains. The property owner advised they had tried to complete the work to bring the property into compliance however it was difficult due to time and the number of flies. The property owner advised their plan was to wait until “fly heavy” season was over and then continue the work. The Compliance Officer explained the Appeal process to the property owner.

The property owner submitted a Notice of Appeal (attached as Appendix E) to the Municipal Clerk’s Office.
- 04-Jul-2018 The Municipal Clerk’s Office sent the property owner a letter (attached as Appendix F) advising the appeal would be heard at the August 2, 2018 Appeals Standing Committee meeting.
- 23-Jul-2018 The Compliance Officer conducted a site inspection and noted the violation remains.

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.

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.

RISK CONSIDERATIONS

There are no significant risks associated with the recommendations in this report. The risk consideration rates low.

ENVIRONMENTAL IMPLICATIONS

No environmental implications identified.

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 May 15, 2018
- Appendix D: Copy of the Order to Remedy (debris) dated June 20, 2018
- Appendix E: Copy of the Notice to Appeal dated June 27, 2018
- Appendix F: Copy of the letter from the Clerk's Office dated July 4, 2018

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.

Staff Contact: Jonathan Wells, Compliance Officer II, By-law Standards, 902.219.4798

Original Signed

Report Approved By:

Penny J. Henneberry, Manager, Buildings and Compliance, 902.579.0250

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:

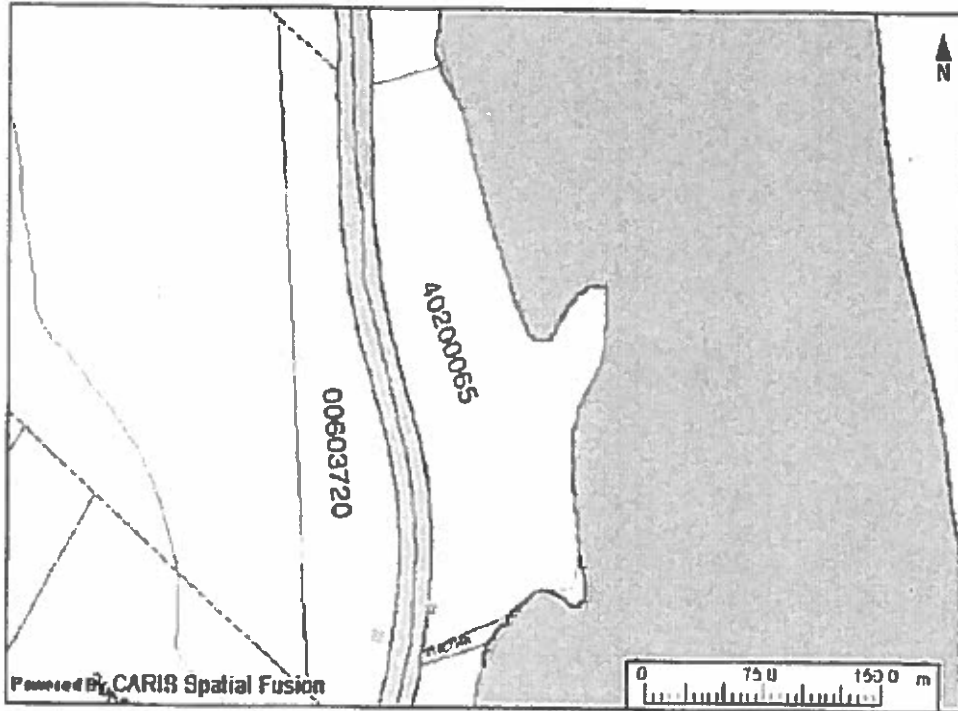
- (q) "dangerous or unsightly" means partly demolished, decayed, deteriorated or in a state of disrepair so as to be dangerous, unsightly or unhealthy, and includes property containing
- (i) ashes, junk, cleanings of yards or other rubbish or refuse or a derelict vehicle, vessel, item of equipment or 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: Jul 19, 2018 4:07:57 PM



PID	40200065	Owner	TOBY BALCH	APN	0569:707
County	HALIFAX COUNTY		LISA MARCE SCOTT	Value	\$7,700 (2015 RESIDENTIAL TAXABLE)
LR Status	LAND REGISTRATION		LISA MARCE SCOTT		\$1,500 (2015 RESOURCE TAXABLE)
		Address	CLAM HARBOUR ROAD		
			CLAM BAY		

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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Municipal Compliance

Notice of Violation

Notice Served Upon: Name _____
or address 4180 Clam Harbor Rd, Clam Bay, N.S.

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

- | | |
|--|---|
| <input type="checkbox"/> HRM By-law A-700 Animals | <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 C-501 Vending | <input type="checkbox"/> HRM By-law S-801 Temporary Signs |
| <input checked="" type="checkbox"/> HRM Charter, Part XV Respecting Dangerous or Unightly Premises | <input type="checkbox"/> HRM By-law S-1000 Sidewalk Cafes |
| <input type="checkbox"/> HRM By-law N-300 Nuisances | <input type="checkbox"/> HRM By-law T-1000 Taxi & Limousine |
| | <input type="checkbox"/> Other: _____ |

Details of violation(s):

An accumulation of debris including but not limited to fallen bricks, crushed metal rubber stove, auto tires, car parts, car seats, and other loose and scattered debris.

Violation(s) to be rectified as per the following:

Please remove above listed items from property.

Notice of Re-inspection:

A re-inspection will be performed on June 14, 2018 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.

Jonathan Wells
Issuing Officer

902 219-4798
Issuing Officer Phone Number

ORIGINAL SIGNED
Issuing Officer Signature

15/05/18
Date (dd/mm/yy)

17/09
Time (hh/mm)

310419
Case Number

Appendix D



**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 on CLAM HARBOUR RD, CLAM BAY, NS,
PID # 40200065 Tax # 8881707 Case # 310419
Hereinafter referred to as the "Property"

TO: LISA MARIE SCOTT
TOBY BALCH


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 collapsed accessory building and associated debris and contents, scrap wood, scrap metal, nails, rubber, stove, pots, tires, cans, rims, bedframe, stove, pallets, automotive parts, car seats, automotive accessories, discarded household items and other scattered litter and 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 collapsed accessory building and associated debris and contents, scrap wood, scrap metal, nails, rubber, stove, pots, tires, cans, rims, bedframe, stove, pallets, automotive parts, car seats, automotive accessories, discarded household items and other scattered litter and 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 thirty (30) 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 20th of June, 2018 AD

ORIGINAL SIGNED

JONATHAN WELLS
COMPLIANCE OFFICER
Phone: (902)219-4798 x

ERIN DOBSON
Administrator
Halifax Regional Municipality

Appendix E

Ross-Siegel, Simon

From: Office, Clerks
Sent: June-28-18 8:50 AM
To: Ross-Siegel, Simon
Subject: FW: Case#310419 barn in Clam Bay

Hi Simon - would you please respond to this Appeals Inquiry? Thanks!
April

—Original Message—

From: Toby Balch [redacted]
Sent: June 27 18 4:51 PM
To: Office, Clerks <clerks@halifax.ca>
Subject: Case#310419 barn in Clam Bay

Hi there,

I just got off the phone with Jonathan Wells, who I believe is a Bilaw enforcement officer. We just heard today that he put a notice on our collapsed barn to clean it up in 30 days. When I first heard from him a few weeks back, I went right down and cleaned up a fair bit that was outside the barn from storm damage this winter but feel it is unsafe to go inside or do more to pull it down right now. I told him I needed some time, so this notice is a bit of a shock.

I also had no idea the notice was posted until a friend told us today, since we live in Dartmouth and rarely go to the property. Jonathan said a letter was sent but we never got it.

He gave me this email as he said you have no phone number and close at 430pm so I would like you to consider my concerns and advise me on what can be done about it. If I need to appeal this, please consider this as my request to do so.

Thanks,

Toby Balch
[redacted]

Appendix F

COPY

CANADA POST / REGISTRE
 REGISTERED DOMESTIC / RECOMMANDÉ RÉGIME INTÉRIEUR
 CUSTOMER RECEIPT / REÇU DU CLIENT

To / Destinataire: _____
 Name / Nom: _____
 Address / Adresse: _____
 City / Town / Postal Code / Ville / Localité / Code postal: _____

1 888 550 6333
 RC 180 014 026 CA

July 4, 2018

REGISTERED MAIL

Toby Balch

[Redacted]

Re: Case 310418, Ciam Harbour Road, Ciam Bay, NS, PID # 40200035

This is to advise that your appeal will be heard by the Appeals Committee on Thursday, August 2, 2018. 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 July 28, 2018. <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 902-490-6517.

Sincerely,

ORIGINAL SIGNED

Simon Ross-Siegel
Legislative Assistant
Office of the Municipal Clerk

- cc: Tanya Phillips, Manager, By-law Standards
- Scott Hill, Supervisor, Regional Compliance
- Erin Dobson, Supervisor, Support Services
- Penny Henneberry, Manager, Planning & Development - Municipal Compliance
- Paula Amaral, Administrative Assistant II, Municipal Compliance
- Natalie Matheson, Adjudication Clerk
- Jonathan Wells, Compliance Officer

Enclosure: Order of Proceedings for Appeals Standing Committee

HALIFAX

Halifax Regional Municipality
PO Box 773, Halifax, Nova Scotia
Canada B3J 2Y5

