




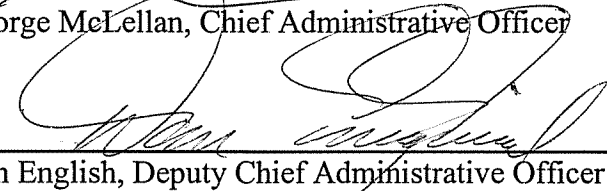
PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

Halifax Regional Council  
January 13, 2004

**TO:** Mayor Kelly and Members of Halifax Regional Council

**SUBMITTED BY:**

  
\_\_\_\_\_  
George McLellan, Chief Administrative Officer

  
\_\_\_\_\_  
Dan English, Deputy Chief Administrative Officer

**DATE:** January 7, 2004

**SUBJECT:** Noise By-Law Exemption - 11 Fairfax Drive, Clayton Park

**ORIGIN**

November 12, 2003 application for an exemption from By-Law N-200, Respecting Noise, by Rideau Construction Inc., attached as Appendix A.

**RECOMMENDATION**

It is recommended that:

Regional Council approve Rideau Construction Inc's. application for exemption from the provisions of the noise by-law under the specific conditions as outlined in Appendix C.

## **BACKGROUND**

In September, 1999 HRM Council adopted By-Law N-200, Respecting Noise. This by-law prohibits any person from engaging in any activity that unreasonably disturbs or tends to disturb the peace and tranquillity of a neighbourhood.

The By-Law allows for any person to send an application to Regional Council requesting an exemption from any or all provisions of the noise by-law for which that person may be prosecuted. The by-law states that an applicant or any person opposed to an application may be heard at a session of Council. Notice of the Council Session is required to be mailed to assessed owners of property located within 100 feet of the property which is subject to the hearing.

The applicant is requesting an exemption to the by-law as the concrete finishing may be in violation of the following provisions of By-Law N-200, Respecting Noise:

Section 3, Part 1 which states "No person shall engage in any activity that unreasonably disturbs or tends to disturb the peace and tranquillity of a neighbourhood"

As prescribed in the bylaw, in deciding whether or not to grant an exemption, Council is to give consideration to:

- the social or commercial benefit of the proposed activity to the municipality;
- the viewpoints of community residents;
- the proposed hours of operation of the noise-emitting activity; and
- the proposed duration of the subject activity.

An excerpt from the Noise By-Law detailing the exemption process is attached as Appendix B.

## **DISCUSSION**

Rideau Construction is building the last of three buildings which constitute the Shannex Retirement residences in Clayton Park. Part of the process in constructing this building is the pouring, curing and finishing of the concrete.

Due to the many variables which affect the curing and finishing of concrete, it is extremely difficult to predict the time that will be required to complete any one pour, therefore Rideau is requesting an exemption in anticipation of the need to work after 9:30 pm on some occasions.

The application for exemption details the following points:

- The structure is five levels above ground, complete with a one level underground parking structure. A total of seven floor slabs including the basement floor.
- Rideau Construction Inc. is currently in the concrete floor slab phase of the project, as well as construction of the tilt-up concrete wall panel system.
- Concrete works are scheduled to be completed by the end of February, 2004. This was originally anticipated to be the end of January, however weather and design delays have pushed back the schedule.
- The application for an exemption pertains only to the concrete finishing operation, and no additional work will be performed during the restricted hours noted in the by-law.
- There is a period of time that elapses while the concrete sets before the finishing process can be completed. Depending on weather conditions, it can take up to 18 to 24 hours from placement to final finish for the concrete floor process to be completed.

Of the seven floor slabs, two have been poured and the next is the last “structural slab”. The remaining four are concrete topping, to be poured on structural steel decking.

The nature of reinforced structural concrete slabs requires the concrete to be placed in large “monolithic” pours resulting in lengthy curing times, even in temperate weather. Under winter conditions these times are increased considerably due to the lower temperatures, high wind speeds, and fluctuations in humidity levels. Chemical accelerants are used to reduce curing times, however excessive use of such chemicals can have a negative affect on the structural integrity of the concrete. These additives are closely monitored by Rideau’s structural consultants.

The non-structural slabs are not as thick as the structural slabs, however the same challenges exist relative to lower temperatures, high wind speeds, and fluctuations in humidity levels. These slabs can however, be poured in smaller sections, thereby reducing the need for after hours finishing. In addition, the “tilt up” walls for the building will have been erected by the time these floors are poured. Enclosing the work with these walls will significantly contain and dampen noise generated by the finishing process.

In addition, slabs will be heated from below in an effort to reduce the curing time and therefore minimize the need for “after hours” finishing.

The project is located in Clayton Park where the abutting properties surrounding it are primarily residential. Meetings between staff and representatives of Rideau Construction have focussed on

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finding a reasonable balance between the challenges faced by the builder and the inconvenience to the surrounding community. The results of these negotiations are included in the proposed exemption attached to this report as Appendix C.

The bylaw allows Council to consider any matters it deems appropriate at the hearing and either reject the application or approve it with or without conditions.

The proposed exemption is not a “blanket” exemption from the bylaw. It is for specific activities under specific conditions:

- The exemption would apply only to the noise related to concrete finishing;
- Concrete Pours will be scheduled to be completed early in the day;
- No concrete finishing on Saturdays, Sundays, or statutory holidays;
- 24 hours notice will be provided to area residents;
- Site signage will be maintained to inform the community in advance, of the potential for after hours concrete finishing;
- Weather forecasts will be used to schedule work in an effort to reduce the potential for pours in “extremely low temperatures”;
- The exemption only applies to work extending beyond 9:30 pm, it does not permit work to commence prior to 7:00 am;
- Hoarding and heat will be used to accelerate concrete curing.

Halifax Regional Police had responded to complaints of noise emitting from the site during the early stages of concrete finishing. Summary offence tickets have been issued and no further violations have been noted since two instances in November. Halifax Regional Police have been notified of this application and are prepared to administer the bylaw under the conditions outlined in Appendix D.

**BUDGET IMPLICATIONS**

There are no budget implications.

**FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN**

This report complies with the Municipality’s Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

**ALTERNATIVES**

There are a number of alternatives available to Council in considering this application:

1. Approve the application without conditions.
2. Approve the application with conditions.
3. Reject the application in its entirety.

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**ATTACHMENTS**

Appendix A: November 12, 2003 application for Exemption from By-Law N-200, Respecting Noise; issued by Rideau Construction Inc.

Appendix B: Excerpt from By-Law N-200 Respecting Noise re: Granting Exemptions by Council.

Appendix C: Noise bylaw Exemption Conditions

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by:

Ed Thornhill, Manager - Permits and Inspections

490-4480



Report Approved by:

Paul Dunphy, Director - Planning and Development Services

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APPENDIX A

11/12/2003 14:21 FAX

November 12, 2003 (VIA FAX 490-7117 and 490-4208)

Halifax Regional Municipality

TO WHOM IT MAY CONCERN

Re: Shannex Retirement Residence  
11 Fairfax Drive, Clayton Park  
Halifax


Please consider this letter as our request for a variance in the Noise Bylaw necessary to allow construction of the above noted project which we now have underway. This project commenced construction in August, 2003. The building is five levels above ground complete with one level underground parkade. We are currently in the concrete floor slab phase of the project as well as construction of the tilt-up concrete wall panel system. Structural steel erection will commence in a couple of weeks.

Our specific request for a variance in the Noise Bylaw pertains to the concrete finishing operation only and no other work will be performed during the restricted hours noted in the existing Bylaw. Our problem, especially now during the colder weather, results from the properties of concrete relative to the concrete set-up time requirement prior to power trowelling for the floor finish. We have been starting the floor concrete pouring operation early in the morning, typically between 7:00 am and 8:00 am, but the concrete does not set up sufficiently enough to allow the finishing operation to begin until sometime later in the evening thus requiring the finishing crew to work during the night to complete the floor finish. This is a normal procedure for concrete floor finishing on projects of this size as the concrete will take up to 18 to 24 hours from placement to final finish. There is no additive or alternate concrete mix design that will achieve set times any quicker than this. Thus, we have no other option or construction method available to allow this concrete floor construction to take place only within the hours outlined in the Bylaw.

Our schedule for this concrete floor construction will run from now until end of January, 2004. As noted above, the only construction work required to proceed during the restricted hours of the Noise Bylaw is this concrete floor finishing. Your consideration of this request is greatly appreciated. Please contact the undersigned, or our Project Manager for this project, Donnie Sencabaugh, if you require further information. We would also be happy to meet to discuss further if required.

Yours truly,

RIDEAU CONSTRUCTION INC.



Roger Rowsell  
Director -- Business Development

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TEL: 902-835-8205  
FAX: 902-835-8245

EMAIL: build@rideaucon.ca  
www.rideaucon.ca

Rideau Construction Inc.  
1597 Bedford Highway, Suite 202  
Bedford, Nova Scotia  
Canada B4A 1E7

**RIDEAU®**

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APPENDIX B

**Excerpt from By-law N-200 Respecting Noise re: Granting Exemptions By Council**

6. (1) Notwithstanding anything contained in this By-Law, any person may make application to Council to be granted an exemption from any of the provisions of this By-Law with respect to any emission of noise for which that person might be prosecuted; and Council, by resolution, may refuse to grant any exemption or may grant the exemption applied for or any exemption of lesser effect; and any exemption granted shall specify the time period, not in excess of six months, during which the exemption shall be effective and the exemption shall be in written form and shall include such terms and conditions as Council deems appropriate.

(2) In deciding whether or not to grant an exemption, Council shall give consideration to the social or commercial benefit of the proposed activity to the municipality, the views of any residents of the municipality which may be expressed to Council, the proposed hours of operation of the proposed noise-emitting activity and the proposed duration of the subject activity.

(3) In deciding whether or not to grant an exemption, Council shall give the applicant, and any person opposed to the application, an opportunity to be heard during a Council Session and may consider such other matters as it deems appropriate.

(4) Notice of the time, date and purpose of the Council Session at which the hearing is proposed to take place shall be mailed to the assessed owner or owners as shown in the records of the Regional Assessment Office, of property located within 100 feet of the property which will be the subject of the hearing;

(5) Any alleged breach by the applicant of any of the terms or conditions of any exemption granted by Council, shall be investigated by municipal staff, reported to Council in writing and Council shall determine whether or not a breach has taken place. If a breach has taken place, Council may pass a resolution revoking the exemption, without the necessity of giving notice of rescinding motion, and such exemption shall be null and void as of the passing of such resolution.

**APPENDIX C**

**Conditions of Noise bylaw Exemption for  
Rideau Construction Inc. @ 11 Fairfax Drive, Clayton Park**

**GENERAL PROVISION**

- 1- Unless otherwise specified in this exemption, all provisions of the Noise bylaw remain in affect.
- 2- The exemptions contained herein apply only to the finishing of concrete for the exemption period and only if all other provisions of the Noise bylaw are complied with;
- 3- No concrete finishing will be undertaken on any Saturdays, Sundays, or statutory holidays;

**METHODOLOGY and PROJECT MANAGEMENT**

- 4- Scheduling of concrete pours will done in consideration of long range weather forecasts in an effort to minimize the affect of extreme cold temperatures;
- 5- Hoarding and temporary heat will be utilized to further “accelerate” the concrete curing process.
- 6- Concrete pours will be initiated as early as possible on the day of the pour;
- 7- Concrete Pours will be scheduled to be completed early in the day in an effort to minimize the need to extend the finishing process beyond 9:30pm;

**PUBLIC NOTIFICATION**

- 8- Notice of the possibility of after hours noise shall be given 24 hours prior to the activity generating the noise;
- 9- The notice specified in clause 8 shall be in written form delivered to all residences within 100 feet of the construction site;
- 10- Site signage shall be provided notifying the public of the possibility of after hours noise and be updated no later than 24 hours prior to the activity generating the noise;

**EXEMPTIONS**

- 11- Notwithstanding clause 3, the Exemption Period is in affect from Jan 14<sup>th</sup> to March 21<sup>st</sup> inclusive;
- 12- The exemption only applies to work extending beyond 9:30 pm, it does not permit work to commence prior to 7:00 am.