

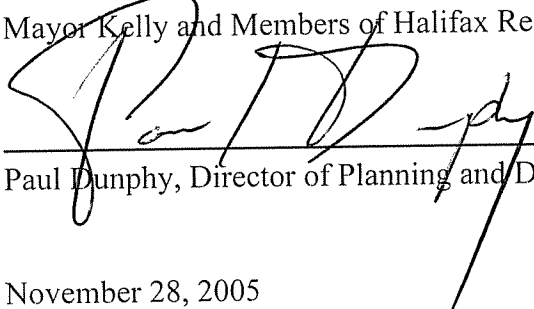


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**Halifax Regional Council**  
**December 13, 2005**

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

**SUBMITTED BY:**   
Paul Dunphy, Director of Planning and Development Services

**DATE:** November 28, 2005

**SUBJECT:** Impact of Construction on Surrounding Properties

## **INFORMATION REPORT**

### **ORIGIN**

This report responds to a Council resolution regarding the impact of construction activity on surrounding properties (Status Sheet Item #9.3.2 - November 22, 2005).

### **BACKGROUND**

An apartment building is currently under construction at 182 Bedford Highway. The building complies with all relevant municipal requirements. The property fronts on the Bedford Highway and backs on Armada Drive which is a local street serving a number of low density residential uses. Some residents on Armada Drive have expressed concerns regarding the building and its impact on their properties. Council requested staff report back in response to those concerns.

### **DISCUSSION**

#### **1) Value and Enjoyment of Property**

Some property owners on Armada Drive have suggested they have experienced a substantial reduction in property value due to the loss of a view of Bedford Basin. This view was largely eliminated as a result of the construction of the apartment building on the adjacent lot which is located between Armada Drive and the Bedford Basin.

Views from private property are not protected by regulation and cannot be guaranteed by HRM. Views that extend over the undeveloped potential of another property owner's land are particularly at risk. The ability of the land owner to control a view in these circumstances is extremely limited.

Any value attached to a view across the undeveloped potential of another owner's land is not an accurate reflection of property value because that view can be lost at any time.

**2) Compensation**

Lawfully approved development activity, such as the apartment building in question, is carried out under regulations that were approved by Council. Therefore, development activity that satisfies these requirements is a legal activity. The Municipality would only be liable if the permit was issued in error. As stewards of the community's financial resources, staff do not support using public funds to compensate private individuals for the loss of an unprotected view as a result of lawful development activity.

Compensation from the developer would be a matter of civil litigation that is beyond the authority of HRM to comment or provide advice.

**3) Noise Bylaw**

Council has requested that staff comment on "if the noise bylaw could restrict construction on holidays". It first must be acknowledged that the Noise Bylaw does not restrict or prohibit construction itself. It regulates only the noise generated by construction activity. Staff have examined municipal records and there is no record of any noise complaints being received for property at 182 Bedford Highway.

The Noise Bylaw currently restricts construction related noise from 7 PM to 9 AM on Statutory Holidays. An amendment to the existing bylaw would be required to restrict noise beyond these hours.

**4) Building Height**

The property in question is zoned C-2A. This zone has different maximum permitted heights for residential uses (50 ft) and minor commercial uses (35 ft). Council has requested that staff comment on the height regulation applied to this building.

Prior to receiving an application for this particular building, staff examined the height clause in this section of the bylaw. In an effort to eliminate any possibility of confusion or inconsistent interpretation of this section over time, staff sought legal advice as to the correct interpretation. The result of this review was as follows:

- Residential buildings in this zone are limited to a maximum height of 50 ft based on the definition of height in the bylaw
- Commercial buildings in this zone are limited to a maximum height of 35 ft based on the definition of height in the bylaw
- Buildings containing a mix of commercial and residential uses are limited to a maximum height of 50 ft provided there are no commercial uses located above the 35 ft level

This process confirmed that the historic interpretation of the bylaw was correct. This has continued to be the basis for application of the height restrictions in this zone. It would not be defensible for

the Development Officer to alter that interpretation without an amendment to the land use bylaw. This issue, among others, is currently the subject of a public hearing related to proposed bylaw amendments that will be considered by Chebucto Community Council on December 12, 2005.

**5) Heritage Designation - 6 Armada Drive**

Six Armada Drive is a designated heritage property and it has been suggested that the heritage significance has been impacted by the loss of the view.

Alterations to a registered heritage property are required to meet relatively high standards. Prior to registration, the property owner is notified and given an opportunity to provide input at a public hearing. However, in the case of properties in the surrounding neighbourhood, there are no additional restrictions on as-of-right development due to the proximity to any designated heritage property.

Staff have reviewed the heritage records and there is no indication that views of the Bedford Basin were a component of heritage significance for this property. The records indicate the reasons for the heritage designation were the building's age, its aesthetic and architectural merit, and the historical significance of some of the former owners and occupants.

**BUDGET IMPLICATIONS**

There are no budget implications associated with this status update report.

**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**

This report is presented for information only. There are no alternatives presented for Council's consideration.

**ATTACHMENTS**

None

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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