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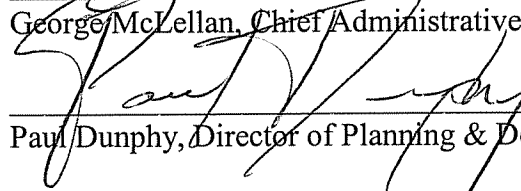
PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Halifax Regional Council**  
**August 9, 2005**

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

**SUBMITTED BY:**

  
George McLellan, Chief Administrative Officer

  
Paul Dunphy, Director of Planning & Development Services

**DATE:** July 26, 2005

**SUBJECT:** Vacant and Boarded up Buildings

**ORIGIN:**

- June 26, 2001-- Council requests a staff report clarifying the time frame that a building can remain boarded up and the feasibility of creating a by-law to deal with vacant and boarded up buildings.
- May 20, 2003 -- staff report indicates that no time limit exists for vacant or boarded up buildings. Council requests an information report on revisions to the MGA.
- December 2, 2003 -- Council approved a staff recommendation to amend the MGA.
- May 5, 2004 -- the Provincial Legislature adopts three amendments to the MGA.

**RECOMMENDATION:**

**It is recommended that Halifax Regional Council request that the Province adopt legislative amendments granting the Halifax Regional Municipality the power to expropriate properties which are deemed to be in a vacant and boarded up condition and to sell these properties at below market value.**

**BACKGROUND:**

Council has sought to create a vacant building by-law that would enable the municipality to encourage occupancy of vacant buildings in a blighted condition. Presently, municipal authority through the Residential Occupancy Standards By-law (M-100), and Dangerous and Unightly legislation, is considered too limited to achieve this objective. As a result, council directed staff to proceed with a request to amend the MGA to facilitate the creation of a new vacant building by-law.

Accordingly, three amendments to the MGA were passed on May 5, 2004. Two of the amendments did not significantly increase municipal powers. The most critical power, the power to expropriate vacant buildings was not approved. Currently, without the power to expropriate it is not possible to develop an effective vacant building bylaw because enforcement of such a bylaw would require prolonged legal action. During this time, the building would remain vacant and boarded up.

HRM requested that the Province grant the Municipality the authority to expropriate vacant buildings without compensation. Expropriation without compensation is a very drastic infringement on property rights which the Province was not prepared to confer on the Municipality. Expropriation is arguably the foundation upon which the success of this type of program would rest.

Consequently, staff initiated further meetings with the Province to discuss expanding the Municipality's expropriation authority with the requirement that property owners receive compensation.

**DISCUSSION:**

The following elements are required to create an effective vacant building by-law program:

1. *a limit on the period of time that a building may remain boarded up;*
2. *a licensing fee for program entry and a graduated penalty fee for noncompliance which encourages remediation of a vacant structure for occupancy;*
3. *a determination of the criteria under which properties that are not in compliance with the program may be expropriated;*
4. *an ability to expropriate a property based on that criteria; and,*
5. *an ability to sell expropriated properties at less than market value*

Adopting a vacant and boarded up building bylaw before obtaining the last three powers will result in an ineffective bylaw and will create public expectation that cannot be met. Therefore to achieve this, the Province needs to broaden the definition of expropriating property for a "municipal or public purpose" to enhance the municipality's authority in this regard. Presently, the taking of private property for a "Public Purpose" is far too narrowly defined to permit vacant building expropriations. Therefore the following provisions should be reflected in the enabling legislation to the Province.

- *to enhance municipal powers by broadening the definition of expropriating a property for a "public or municipal purpose" to include properties which are deemed to be in a blighted condition;*

- *that any legislation clearly sets out all of the parameters of expropriation;*
- *that compensation be offered to an affected property owner for any such expropriation;*
- *that all circumstances for an expropriation be clearly defined;*
- *that such enabling authority be specific to the HRM; and,*
- *that within the context of this program, the municipality be permitted to sell properties at below market value as an inducement for them to be renovated and occupied.*

It is understood that any program that involves spending money to expropriate properties and potentially selling them at less than market value will have a financial impact on the Municipality. If the Province grants these powers to the Municipality, this will be discussed in greater detail when a draft vacant building by-law is submitted to Council. For example, the Municipality will need to ensure that purchasers have an executed property investment plan which provides the Municipality with the right of first refusal so that if required, the Municipality can purchase the properties back.

**BUDGET IMPLICATIONS:**

None.

**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:**

- Council could choose to request that the Province adopt legislative amendments providing the Municipality with the power to expropriate properties deemed to be in a blighted condition and to sell these properties at below market value. This is the staff recommendation.
- Council could choose to resubmit a request through staff to amend the MGA to permit expropriation powers without compensation however, as the Province has already ruled on this issue further changes are unlikely to be forthcoming. Therefore staff does not recommend this alternative.
- Council could choose not to submit a request to amend the MGA to permit expropriation powers for compensation. In this instance staff would continue to monitor and enforce property and maintenance standards matters in accordance with existing practice. Staff does not recommend this alternative because the power to expropriate is critical to adopting an effective by-law.

**ATTACHMENTS:**

Attachment A -- Previously Requested Amendments to the Municipal Government Act to authorize a "Vacant Dwelling" by-law in HRM.

Attachment B – Approved Amendments

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.

Report Prepared by: Shayne Vipond, Planner, 490-4335

Financial Review:

  
FCF Kathy Smith, Financial Consultant, 490-6153

**Attachment A****Previously Requested Amendments to the Municipal Government Act  
to authorize a “Vacant Dwelling” by-law in HRM.**

- 63A The council make by-laws establishing a system to regulate the condition and maintenance of vacant buildings, structure and property, or classes of them, and without limiting the generality of the foregoing, such regulations may include provision
- (a) adopting property maintenance and performances standards for boarded up and vacant buildings, structure and properties,
  - (b) prescribing the manner in which building or structures must be secured by owners or, on default, may be secured by the municipality,
  - (c) providing for the inspection by the municipality of the condition of the buildings structures and properties,
  - (d) limiting the length of time that buildings or structures may remain boarded up,
  - (e) requiring that a license be obtained for boarded up building or structures,
  - (f) imposing a minimum and progressive penalties and fines for noncompliance, and
  - (g) providing for the forfeiture to the municipality of title free and clear from all encumbrances, except for easements to vacant and boarded up buildings and structures that repeatedly violate the regulations or fail to remit the fines and the properties on which they are situated.

**Attachment B**

**Approved Amendments**

“The condition or maintenance of vacant building or structures and properties and, without restricting the generality of the foregoing, may

- i) adopt property maintenance and performance standards
- ii) prescribe the manner in which buildings or structures must be secured by owners of the municipality, and
- iii) limit the length of time that buildings or structures may remain boarded up;”