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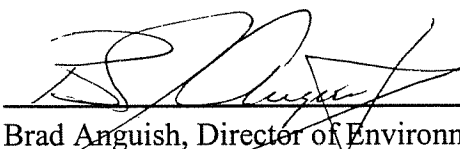
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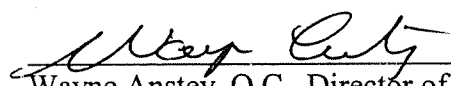
Halifax Regional Council

May 6, 2003

May 13, 2003

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: 
Brad Anguish, Director of Environmental Management Services


Wayne Anstey, Q.C., Director of Administrative and Legal Services

DATE: April 10, 2003

SUBJECT: Vacant and Boarded Up Buildings

INFORMATION REPORT

ORIGIN

A June 26, 2001, motion of Regional Council requesting a staff report relative to the length of time a building may be boarded up and the feasibility of implementing a by-law to address the issue of vacant and boarded up buildings.

BACKGROUND

Vacant and boarded up buildings present a challenge to the sustainability of a community. Such buildings are vulnerable for use by vandals and vagrants involved in illegal activities. Unsecured structures may present a safety hazard to neighborhood children. The impression of economic decline and resulting impact on community image negatively effect property values, which may lead to a cycle of actual economic decline.

The presence of vacant and boarded up buildings in a community can impact the amount of property tax the Municipality is able to collect. The assessed value of a property is based on the market value. Numerous properties in poor condition contribute to a low market value which in turn has a negative effect on the assessed value of properties in good condition. If a property's assessment is lowered, the associated property taxes will also be reduced. Additionally, Financial Services advises that a building leased for floor space is assessed on its ability to generate income after expenses. Therefore, a vacant building which is not generating income will have a lower assessment and related property taxes than an occupied building.

When a neighborhood reaches the stage where a large number of buildings are boarded up, it becomes a much broader issue than boarded up buildings. The situation becomes a community development concern requiring a multi faceted approach to addresses the underlying issues, including maximizing the authorities provided through the MGA.

DISCUSSION

Legal Right of Property Owner to Leave Property Vacant

Buildings are left vacant for many reasons. Typically they are left vacant because doing so is more economically advantageous to the owner than having them occupied. It is the legal right of a property owner to determine whether a property is occupied or not, and **if the owner chooses to leave it vacant, it is their right to determine how long to leave it vacant.** There is no statutory law, either provincial or municipal which requires the owner to keep the property occupied. It is staff's opinion that as currently worded, the *Municipal Government Act*, does not provide Council with the jurisdiction to pass such a law. An amendment to the MGA to give municipal councils such jurisdiction would amount to a fundamental change in the historical rights of property owners.

Obligation of Property Owner to Maintain Property

Whether a property is occupied or not, the owner has a common law duty to his neighbours to keep the property from becoming unsafe and unsightly. Section XV of the MGA (Dangerous or Unsightly Premises) allows the Municipality to address neglect of exterior property maintenance, whether the building is occupied or not. **Under the current wording in the MGA a vacant and boarded-up building is not deemed by definition as Dangerous or Unsightly, as long as the minimum external appearance of the building is retained and the structure does not present a safety hazard to the public.**

The issue then may be ensuring that vacant and boarded up buildings are in fact kept secure and minimum external appearance maintained so that they do not become unsightly. The definitions in section 5 of the MGA which are applicable to these situations defines dangerous or unsightly as follows:

- (r) partly demolished, decayed, deteriorated or in a state of disrepair so as to be dangerous, unsightly or unhealthy, and includes property containing any building or structure:

(r)(v) that the condition of which seriously depreciates the value of land or buildings in the vicinity;

(r)(ix) any building or structure that is unsightly in relation to neighboring properties because the exterior finish of the building or structure is not maintained.

Current Enforcement Practices

By-Law Enforcement Officers respond to dangerous or unsightly complaints including vacant and boarded up buildings. Vacant buildings must be boarded up in such a way as to secure them from invasion and vandalism. Boarded up areas must be painted in keeping with the exterior of the building.

Upon receipt of a complaint, an Officer will conduct a site visit and forward an Inspection Report identifying any violations to the registered property owner. If the property owner does not complete the required work within the time frame specified on the Inspection Report, a Thirty Day Order to Remedy is issued. Non compliance with the Order results in the municipality remedying the property and recovering the cost of the remedy through a lien on the property.

BUDGET IMPLICATIONS

There are no current year 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.

ATTACHMENTS

None.

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.

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