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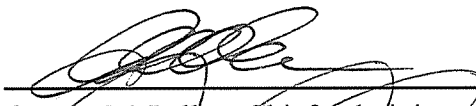


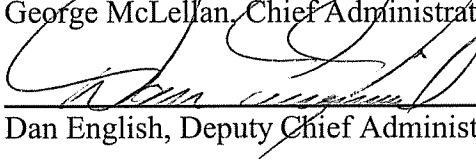
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Halifax Regional Council
May 27, 2003

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:


George McLellan, Chief Administrative Officer


Dan English, Deputy Chief Administrative Officer

DATE: May 22, 2003

SUBJECT: By-Law Rationalization - Effective Punitive Measures Update

ORIGIN

At the direction of the Executive Management Team, the By-Law Rationalization Working Group reviewed the punitive measures components of all HRM by-laws.

RECOMMENDATION

It is recommended that:

1. Regional Council approve in principle and direct staff to arrange for the formal adoption of the amendments outlined in Appendix A to the following HRM by-laws:

By-Law F-100 (Respecting Fire Prevention)
By-Law S-600 (Solid Waste Resource Collection and Disposal)
By-Law S-700 (Respecting Swimming Pools)

to include the appropriate clauses that would empower the HRM to invoke Sections 503(1) and 507 of the Municipal Government Act. This legislation allows the HRM to lien property owners for costs incurred by the municipality to effect the remedy of by-law violations.

BACKGROUND

The By-Law Rationalization Working Group is composed of senior management representation from the RCMP and the ten business units that are collectively responsible for the delivery of by-law services within the municipality. The purpose of the Working Group is “to develop an integrated and responsive by-law service.”

As part of its mandate, the Working Group has reviewed many aspects of by-law services and has produced several recommendations designed to enhance the effectiveness of municipal legislation. The punitive measures component was examined to determine the most effective ways to strengthen the current penalties and remedies for all HRM by-laws. The administrative authority to put liens on property for the majority of HRM by-laws related to property matters is established in the Municipal Government Act. By-laws F-100, S-600 and S-700 were found not to possess such authority. This report recommends implementation of the same measures for these remaining three HRM by-laws related to property matters.

DISCUSSION

Recovering the Cost of A Remedy Through A Lien on the Property

If a by-law empowers an Inspector, Administrator or other designated HRM official to direct that work be completed by a violator to remedy a contravention of a by-law, then on the failure of the person directed to carry out the remedial work, Sections 503(1) and 507 of the Municipal Governance Act can be invoked. Section 503(1) permits the municipality to remedy a default under a by-law if the property owner fails to do so when directed, and subsequently, Section 507 makes the cost of the work to remedy the default under a by-law a first lien on the property on which the work is done or which benefits from the work.

The ability to lien costs for remedying a by-law violation against the property owner increases the effectiveness of the punitive measure of that by-law. This approach has been successfully implemented relative to other HRM by-laws, including False Alarms, Civic Addressing, Local Improvements, and several parts of the Streets By-Law.

Only those by-laws related to property matters may have administrative authority to put liens on property. As an initial step, the Working Group identified which HRM by-laws were related to property matters and which were not. The majority of HRM by-laws already have this power. If the recommendation contained within this report is approved, the remaining HRM by-laws related to property matters will have the administrative authority to put liens on property.

Summary Offense Legislation and Summary Offense Tickets (S.O.Ts)

By way of an update, the By-Law Rationalization Working Group has also identified which applicable by-laws currently lack the ability to issue Summary Offense Tickets. Legal Services is drafting a report to the Province requesting that the Summary Proceedings Act be amended to provide that authority to the identified by-laws. Upon approval of the amendment, all applicable HRM By-Laws will have the authority to issue Summary Offense Ticket. Regional Council approval is not required for this initiative.

BUDGET IMPLICATIONS

There are no budget implications resulting at this time. There will be additional administrative demands on the business units involved with remedying the by-law violations and related tasks.

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

Regional Council may choose to maintain the status quo. This is not recommended as it limits the municipality's enforcement ability.

ATTACHMENTS

Appendix A - Proposed amendments to By-Laws:

- F-100 - Respecting Fire Prevention
- S-600 - Solid Waste Resource Collection and Disposal
- S-700 - Respecting Swimming Pools


**By-Law Rationalization - Effective Punitive Measures Update
Council Report**

May 27, 2003

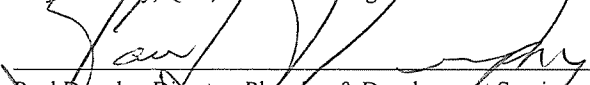
Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

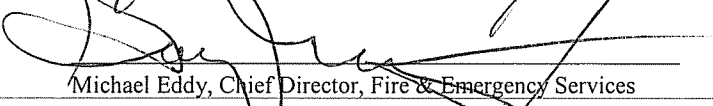
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APPENDIX A - Revised Monday May 26, 2003 (Revisions are in bolded italics)

By-Law F-100 - Respecting Fire Prevention

The following clause should be added to Section 8.1.4.:

- 8.1.4.1.(4) In addition to any fine or imprisonment imposed pursuant to subsection 8.1.4.1.(1), the Court or judge may order the person convicted to pay all expenses incurred in correcting the contravention of this by-law or any damages associated with such contravention.

By-Law S-600 - Solid Waste Resource Collection and Disposal By-Law

The following clauses should be added to Section 20:

- 20.3 In addition to any fine or imprisonment imposed pursuant to subsection 20.1, the Court or judge may order the person convicted to pay all expenses incurred in correcting the contravention of the by-law or any damages associated with such contravention.
- 20.4 Where any person is in contravention of any provision of this by-law, the Manager may direct in writing that the contravention be remedied by that person in the manner and within the time specified in the written direction.

By-Law S-700 - Respecting Swimming Pools

The following clauses should be added to Section 9:

In addition to any fine or imprisonment imposed pursuant to *this section*, the Court or judge may order the person convicted to pay all expenses incurred in correcting the contravention of the by-law or any damages associated with such contravention.

Where any person is in contravention of any provision of this by-law, the *Inspector* may direct in writing that the contravention be remedied by that person in the manner and within the time specified in the written direction.