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Chebucto Community Council
February 4, 2008

TO: Chair and Members of Chebucto Community Council

SUBMITTED BY:

M.E. Donovan

M.E. Donovan, Director, Legal Services & Risk Management

DATE: January 28, 2008

SUBJECT: 65, 73 & 75 Kearney Lake Road - Appeal Process

INFORMATION REPORT

ORIGIN

Councillor Hum requested a report concerning the appeal hearing notification process as it relates to Community Council and the Councillor of the District in question.

BACKGROUND

W. M. Fares Group appealed the decision of Chebucto Community Council to refuse to rezone the property at 65, 73 & 75 Kearney Lake Road to the Nova Scotia Utility and Review Board. The hearing was held on October 25, 2007. The UARB reserved its decision. Upon receipt, a copy of the decision will be forwarded to members of Chebucto Community Council.

DISCUSSION

Under the appeal process, W.M. Fares Group, as the appellant, becomes a party to the appeal as does HRM as respondent. Other parties may be added if they can show the Utility and Review Board that they are aggrieved persons as defined under the *Municipal Government Act*. When parties are represented by counsel, all notices and correspondence in relation to the appeal are sent to counsel on behalf of their client; accordingly, no notices are sent by the UARB to the Councillors of Chebucto Community Council, the original decision maker in this matter, nor to the Chebucto Community Council itself.

To effect notice of the hearing to the public, the appeal process followed by the Utility and Review Board is to have the appellant give notice (Notice of Public Hearing) by original prepaid mail to all the assessed owners of land within 500 feet of the property and the Board publishes the Notice of Public Hearing in the local newspaper on two separate occasions. That Notice advises that everyone is entitled to attend the hearing; further, if anyone wishes to express their views on the appeal, they may choose to speak at an evening session or send a letter to the Board or apply for formal standing. The Notice also indicates that if you want to apply for formal standing you have to give written notice to the Board by a certain deadline. Further, if you want to speak at the optional evening of the Board Hearing, you have to advise the Board in writing by a deadline.

In this case, the Board advised that no one applied for formal standing, no one applied to speak at the optional evening session and so it was cancelled. Several people sent letters to the Board giving their views on the matter which is part of the evidence before the Board.

This hearing, originally scheduled for September 20, 2007, was postponed at the request of the Board. Counsel for the parties agreed to a new date to hear the matter, which is the standard method for achieving a new date, being October 25, 2007. Apart from counsel for the parties before the Board, there is no further or other notification of the hearing date given or sent to any other person, unless they have already applied to the Board to speak at the hearing. Counsel for HRM notifies any witnesses and secures their availability before agreeing to a new hearing date, which was done in this case.

However, the question suggests that the preferred practice would be for Legal Services to formally advise a Community Council when an appeal has been filed; and subsequently advise of the hearing date once it has been set. Legal Services will adopt this practice in future planning appeals.

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.

ATTACHMENTS

none

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

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