



P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Heritage Advisory Committee
February 26, 2014

TO: Chair and Members of the Heritage Advisory Committee

SUBMITTED BY: Original Signed by
Brad Anguish, Director of Community and Recreation Services

DATE: January 26, 2014

SUBJECT: **Case H00390: Revisions to HRM's Heritage Incentives Program Terms and Conditions, Proposed Administration Order No. 2014-002-ADM**

ORIGIN

Administrative review of HRM's Heritage Incentives Program.

LEGISLATIVE AUTHORITY

Heritage Property Act, section 22 regarding Council's ability to provide financial assistance in respect of municipal heritage properties.

RECOMMENDATION

It is recommended that the Heritage Advisory Committee recommend that Halifax Regional Council:

1. Approve the proposed Administration Order Number 2014-002-ADM – Respecting the Heritage Incentives Program, as outlined in this report, to be effective beginning with applications for financial assistance for the 2015-16 fiscal year; and
2. Continue the existing Heritage Incentives Program for the fiscal year 2014-15 and delegate to the Heritage Planner the authority to continue administering the program and to approve applications for financial assistance within the annual program budget for 2014-15.

BACKGROUND

HRM's Heritage Incentives Program is an important heritage conservation tool which provides significant financial assistance to property owners who take advantage of it. The program has been successful in offsetting the costs of traditional skills and materials which have become increasingly more expensive compared to modern techniques and materials such as vinyl and steel. The program has supported the retention and protection of numerous significant heritage buildings, while supporting the local building economy. The continuation of the program is a key component in a comprehensive program of incentives such as land use incentives, provincial tax rebates, and dedicated heritage staff.

Legislative Authority

Section 22 of the *Heritage Property Act* gives authority to Council to "provide financial assistance in respect of municipal heritage property or property located in a heritage conservation district to any person to assist in the restoration or renovation of such property upon such terms and conditions as the Minister or the council, as the case may be, deems fit." Since its inception in 2002, the Heritage Incentives Program has been effective in encouraging the conservation of privately owned heritage properties.

Program Structure

On October 24, 2006, Council adopted the 'Heritage Incentives Program Revised Terms and Conditions'. The points of clarification that were made to the program in 2006 included:

- Creation of deadlines for submission of applications and completion of work, and removing the possibility of project carry over;
- Limiting the maximum number of grants;
- Combining the Residential and Commercial components of the program into one program - effective, equitable, and easier to administer;
- Clarifying that owner labour is ineligible;
- Priority for applications including building conservation plans;
- Creating project evaluation and priority criteria for evaluating applications; and
- Requiring a 'Waiver of the Three Year Demolition' as a condition of a grant.

The program enables privately-owned, municipally registered heritage properties in residential or commercial use to apply for a 50-50 cost shared grant of up to \$10,000 for eligible exterior conservation work. Since its inception, the program has had a budget of \$150,000 and provided assistance through 190 individual grants ranging from \$1,000 to \$10,000. As a result the program has triggered over \$1.2 million in private investment in heritage property restoration since 2002.

DISCUSSION

In 2006, Council approved a restructuring of this grant program which included the creation of a set of Terms and Conditions which did not previously exist. The Terms and Conditions have greatly improved participant expectations, and improved integrity and efficiency of the program. However, based on further experience with implementing the program, staff has identified additional changes to improve and clarify the program. As HRM has been accepting applications for the existing program since January 1, 2014 for the 2014-15 fiscal year, staff is

recommending the existing program be continued until the 2015-16 fiscal year program begins, when the new Administrative Order will take effect.

Administrative Order

Pursuant to Administrative Order 54, policies adopted by Council on matters “conducive to the effective management of the Municipality” are now to be adopted in the form of an Administrative Order. This provides a clear mechanism for Council approval of the requirements to receive financial assistance, as well as the process by which financial assistance is awarded. Converting the Terms and Conditions for the Heritage Incentives Program to an Administrative Order will also have the benefit of being appropriately documented as all Administrative Orders are indexed and maintained by the Municipal Clerk.

In addition to the change in format to an Administrative Order, there are three other matters where additional changes are recommended:

1. **Application Review Process**

Since the adoption of the current Terms and Conditions in 2006, the program has been administered entirely by staff. While this has been the practice for many years without issue, it has been determined that having Council approve grants on an annual basis would be a more appropriate approach, bringing this program in line with the process for the Barrington Street Heritage Incentives Program. Staff would perform the initial review and evaluation of all applications, create a report for review and recommendation by the Heritage Advisory Committee, and a final decision by Council.

In the past staff has made effective use of a waiting list of approved applications to which funding was not immediately available. Often one or more of the approved grants are unable to be completed, and in these cases quickly reallocating those funds is important. Staff would ask Council to approve grants in priority and permit staff to administer them in accordance with the approved operating budget.

2. **Appeals**

In the current Terms and Conditions document, there is an appeal process outlined in which an applicant may choose to appeal either the refusal of a grant, or the withholding of an approved grant payment within 14 days of written notification of the decision. Appeals were to be addressed to the Chair of the Heritage Advisory Committee with reasons for the appeal stated.

To date, HRM has not received a written appeal but the process as presently outlined in the Terms and Conditions is problematic as the Heritage Advisory Committee is an advisory body to Council and does not have the authority to hear appeals. Changing the approval process to require Council to approve grants will correct this oversight and the appeals section of the Terms and Conditions will be removed. Any challenge to a decision of Council would be by way of judicial review.

Condominium Corporations

Part of the current application process requires the signature of the property owner on the grant application form. The reason for this, in part, is to make the owners aware of the conditions attached to the acceptance of the grant. In the case of a condominium corporation there are potentially a number of owners affected. As each heritage property is only eligible for two grants in a four year period, it is important that each owner agree to the acceptance of the grant and the conditions placed on it. This is especially true when grant work may benefit one property owner more than another. To resolve this, staff recommend requiring written documentation from a condominium corporation's Board of Directors stating their wish to apply for an HRM heritage incentives grant.

Conclusion

The recommendations in this report will further improve an already successful program, and staff therefore recommends that the Heritage Advisory Committee recommend that Regional Council approve the proposed Administrative Order Number 2014-002-ADM - Respecting the Heritage Incentives Program as contained in Attachment A - Proposed Administrative Order.

FINANCIAL IMPLICATIONS

There are no budget implications related to the creation of the proposed Administrative Order Number 2014-002-ADM – Respecting the Heritage Incentives Program as they are administrative and operational in nature rather than financial. The heritage financial incentives can be accommodated within the approved 2013/14 operating budget for C310 Planning and Applications.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was information sharing achieved through public accessibility to the required Heritage Advisory Committee meeting and to Regional Council.

ENVIRONMENTAL IMPLICATIONS

No concerns identified.

ALTERNATIVES

1. The Heritage Advisory Committee may recommend that Regional Council approve the proposed Administrative Order Number 2014-002-ADM – Respecting the Heritage Incentives Program as outlined in this report and delegate the authority to continue to administer the program and approve applications for the 2014-15 fiscal year to the Heritage Planner. This is the staff recommendation.

2. The Heritage Advisory Committee may recommend that Regional Council approve the proposed Administrative Order Number 2014-002-ADM – Respecting the Heritage Incentives Program to come into effect immediately and bring forward the applications for 2014-15 for Council’s consideration as per this Administrative Order. This is not recommended, as applications have already been received under the existing Terms & Conditions.

3. The Heritage Advisory Committee may wish to recommend that Regional Council approve the proposed Administrative Order 2014-002-ADM with changes. This is not recommended for the reasons outlined in this report. Changes, depending upon their nature, may necessitate an additional staff report.

ATTACHMENTS

Attachment A: Proposed Administrative Order Number 2014-002-ADM

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.

Report Prepared by: Maggie Holm, Heritage Planner, 490-4419
 Sara Knight, Solicitor, 490-3295

Original Signed by

Report Approved by: Kelly Denny, Manager of Development Approvals, 490-4800

Original Signed by

Report Approved by: John Traves, Q.C., Director, Legal, Insurance and Risk Management Services, 490-4219

Attachment A

HALIFAX REGIONAL MUNICIPALITY ADMINISTRATIVE ORDER NUMBER 2014-002-ADM RESPECTING THE HERITAGE INCENTIVES PROGRAM

WHEREAS pursuant to *Heritage Property Act*, R.S.N.S. 1989, c. 199, the Council of the Halifax Regional Municipality may provide financial assistance in respect of municipal heritage property to any person to assist in the restoration or renovation of such property upon such terms and conditions as the Council deems fit;

BE IT RESOLVED AS AN ADMINISTRATIVE ORDER of the Council of the Halifax Regional Municipality as follows:

Short Title

1. This Administrative Order may be cited as Administrative Order Number 2014-002-ADM, the Heritage Incentives Program Administrative Order.

Purpose

2. To encourage the conservation of privately-owned, municipally registered heritage properties used for residential or commercial purposes. Within the limits of the annual approved budget, the Heritage Incentives Program provides matching grants of up to \$10,000 for eligible exterior conservation work.

Interpretation

3. For the purposes of this Administrative Order, “municipally registered heritage property” has the same meaning as “municipal heritage property” in the *Heritage Property Act*, R.S.N.S. 1989, c. 199.

Financial Assistance Available

4. The Heritage Incentives Program operates on the Municipality’s fiscal year, from April 1st to March 31st.
5. Twenty-five per cent (25%) of the annual heritage incentives budget is allocated to applications relating to commercial heritage properties. This is a proportionate allocation based on the fact that commercial buildings make up 25% of the HRM heritage registry. Any funds not used for commercial properties will be made available to residential applications.
6. Financial assistance is awarded on a 50% cost-sharing basis, exclusive of HST.
7. The maximum annual amount of financial assistance per property is \$10,000.00.
8. The minimum annual amount of financial assistance per property is \$500.00.

9. Each property is limited to one application for financial assistance per year, and two successful applications in any four year period.

Application Requirements

10. There is one intake period per fiscal year. Applications will be accepted between January 1st and March 1st for the following fiscal year.

11. All applications must be received by mail or in person. E-mailed or faxed applications will not be accepted. The address for submission of applications will be posted on www.halifax.ca prior to January 1st of each year.

12. Applications must include:

- (a) a completed application form;
- (b) recent photographs of all sides of the building, with close-ups of the areas of work for which the grant is applied;
- (c) two contractor estimates for the proposed work; and
- (d) where the applicant is a condominium corporation, a copy of the board of director minutes approving the submission of the grant application.

13. Late or incomplete applications will not be reviewed or considered.

Eligible Property

14. Only eligible property will be considered for financial assistance.

15. An eligible property must be:

- (a) a privately-owned, registered municipal heritage property within HRM; and
- (b) in use for residential or commercial purposes.

16. A property is not eligible for financial assistance if the property is currently under investigation or prosecution for land-use, Building Code, Fire Code, or Heritage Property Act violations, or is subject to an order to comply under any Act or By-law, or has any liens or property taxes outstanding.

Work & Materials Eligible for Financial Assistance

17. Projects which restore exterior architectural elements significant to the heritage value of the registered heritage property, including any of the following, are eligible for financial assistance:

- (a) **Preservation** of existing exterior architectural elements. This includes, for example, repair of deteriorated windows and doors, cladding, roofing, foundation, cornices, moldings, architectural trim, and other significant features.
- (b) **Replacement** of existing exterior architectural elements that still exist but which are beyond preservation or repair. This includes replacement in kind of deteriorated doors and windows, cladding, roofing, cornices, moldings, architectural trim, and other

significant features, using accurate reconstruction and materials, sizes, and configurations that match the original.

(c) **Restoration** of exterior architectural elements which have been lost but for which the appearance can be clearly determined from physical evidence or documentary sources such as historic drawings or photographs.

(d) **Painting** in colours appropriate to the period of the heritage property. Generally, colours from the heritage palette of the major paint manufacturers are preferred.

(e) **Preservation/restoration of historic outbuildings or landscape features**, such as fences, walls or gates which form part of the original, documented heritage value of the property.

18. To be eligible, projects must use traditional materials (wood, stone, brick, etc.) and traditional designs.

Work & Materials Ineligible for Financial Assistance

19. The following work and materials are ineligible for financial assistance:

(a) work that has been commenced or completed prior to submission of the application;

(b) modern materials such as vinyl or aluminum clad windows, steel doors, vinyl siding, or Exterior Insulation Finishing System cladding;

(c) short-term, routine maintenance including minor repairs;

(d) poor or defective work; or

(e) labour undertaken by the owner.

Project Evaluation and Prioritization

20. Projects will be evaluated using HRM *Heritage Building Conservation Standards* as adopted by By-law H-200, or any other guidelines for the conservation of heritage properties that may be adopted by By-law H-200 from time to time.

21. The following criteria will be used to prioritize applications:

(a) Preference given to first-time applications.

(b) Higher priority will be given to preservation and restoration of historic structural and weatherproofing elements than to cosmetic improvements, e.g., restoration of cladding, windows, doors, or roof has greater priority than painting.

(c) Preference will be given to restoration of publicly visible features, e.g., an application for restoration of a front porch would have higher priority than a back porch restoration.

(d) Balance will be sought between applications from different parts of HRM, e.g., Halifax South End, Halifax North End, Dartmouth, Bedford, South-Western shore, Eastern Shore, etc.

- (e) Preference will be given to applications supported by a Building Conservation Plan prepared by an architect, building inspector, engineer, or other qualified restoration professional. The Building Conservation Plan shall be a drawing or report which reasonably illustrates all work required for the building.

Application Review Process

- 22. All applications will be screened by staff for basic eligibility as they are received. Applicants will be notified promptly if their application is ineligible.
- 23. Eligible applications will be evaluated and prioritized by staff and a report and recommendations will be prepared for consideration by the Heritage Advisory Committee, no later than June 30th each fiscal year.
- 24. The staff report will be reviewed by the Heritage Advisory Committee for recommendation to Regional Council.
- 25. Final approval of all applications for financial assistance, and their amount, is a decision of Regional Council in its sole discretion. Regional Council may:
 - (a) approve the application;
 - (b) approve the application to be placed on a waiting list to be administered by staff in accordance with funds available in the program budget; or
 - (c) refuse the application.
- 26. Notification of the decision of Regional Council will be mailed to applicants after it is made.
- 27. Approval of financial assistance is conditional on Regional Council's approval of the annual program budget.
- 28. Due to limited funds, not all eligible applications may receive financial assistance.

Conditions of Approval & Payment of Financial Assistance

- 29. Projects must be completed within the fiscal year for which they are approved.
- 30. Financial assistance is conditional on satisfactory completion of approved work, photographic documentation of completed work, and submission of well-organized receipts and paid invoices.
- 31. Deadline for submission of receipts and paid invoices is March 1st each fiscal year. This is necessary to enable payments to be processed by end of fiscal year.
- 32. Financial assistance for projects not completed by the end of the fiscal year will be forfeited.
- 33. Financial Assistance is tied to specific approved work. Additional work beyond what is budgeted for and approved will not be funded.
- 34. The applicant shall notify HRM of any changes to the approved work prior to it being undertaken and shall not proceed with the work without supplementary approval. The authority to give such approval is hereby delegated to the Heritage Property Planner. Approval may be sought

at any time in the fiscal year for which the financial assistance was approved, but must be sought prior to the submission of receipts and paid invoices. Work that deviates from the approved work without a supplementary approval may not be eligible for funding and, at the discretion of HRM, such funding may be withheld and re-allocated to another heritage property.

35. For projects which result in cumulative financial assistance of \$10,000.00 or more, no funds shall be paid until the applicant has signed an *Agreement to Waive Section 18 of the Heritage Property Act* and filed the agreement, at their cost, at the Registry of Deeds. Under the agreement, which runs with the property, the applicant agrees not to demolish or alter the exterior appearance of the property in any manner without the written consent of HRM and expressly waives its rights under section 18 of the Heritage Property Act for ten (10) years from the date of the agreement. Waivers must be filed at the Registry of Deeds within 6 months after the end of the fiscal year in which the financial assistance has been approved: failure to do so will result in forfeiture of funds.

Scope

36. Nothing in this Administrative Order shall be interpreted to limit or otherwise prescribe Council's general discretion to provide financial assistance under the *Heritage Property Act* or otherwise.

Effective Date

37. This Administrative Order comes into force beginning with applications for the 2015-16 fiscal year.

Done and passed in Council this ____ day of _____, A.D. 2014.

Mayor

Municipal Clerk

I, Cathy Mellett, Municipal Clerk of the Halifax Regional Municipality, hereby certify that the above noted Administrative Order was passed at a meeting of Halifax Regional Council held on XX, XX, XXX.

Cathy Mellett, Municipal Clerk