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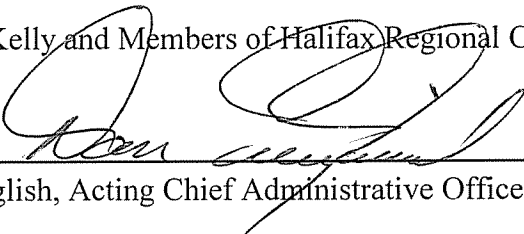


PO Box 1749
Halifax, Nova Scotia
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Halifax Regional Council
July 13, 2004

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:



Dan English, Acting Chief Administrative Officer

DATE: July 5, 2004

SUBJECT: Noise Permit

ORIGIN

On February 10, 2004 following a presentation to Committee of the Whole on Concrete pouring and finishing in winter conditions, Regional Council directed staff to report on the merits of implementing a Noise Permit in the construction approval process.

RECOMMENDATION

It is recommended that

1. Regional Council request the Province to amend the Nova Scotia Building Code Regulations, enabling HRM to withhold issuance of a Building Permit pending confirmation of compliance with the Noise By-law.
2. Regional Council ask the Union of Nova Scotia Municipalities to adopt the resolution, appended hereto as Attachment 1, in support of the legislative change proposed above.

BACKGROUND

The Noise By-law contains restrictions on the times that various types of noise are permitted. It also includes provisions for an application for an exemption from these restrictions. The By-law requires such applications for exemptions to be approved by Regional Council.

Over the past winter Council heard several applications for exemptions from the Noise By-law to accommodate the placement and finishing of concrete. Council has directed staff to report on the merits of a "Noise Permit" to replace the current exemption process.

DISCUSSION

The current exemption process is effectively a noise permit process. It provides an opportunity for someone to get "permission" to make noise outside the limits of the by-law. The "form" that this permission takes is not as important as confirming the appropriateness of the approval process. A formal Noise Permit will not likely add any value to the process.

Unfortunately, the applications heard last winter were for projects that were already well underway, or ready to commence. This created a situation where the applicants may already have been in violation of the Bylaw, or they may not have explored alternate methods of compliance. This experience has indicated that:

- Developers had not considered the Noise By-law early enough in the Project Planning stages; and
- Council was left with little "alternative" when hearing applications for exemptions.

New Administrative Processes

Staff have amended the construction approval process for large projects to include an assessment of the "construction methodology" proposed by the applicant. This requires the applicant to consider the Noise By-law when they apply for their Permit to construct. When developing their Project Plan they will be able to incorporate the Noise By-law restrictions in their schedule. This requires the submission of a Project Plan that complies with the Noise By-law.

In some cases the developer may consider compliance with the provisions of the Noise By-law too onerous and choose to apply for an exemption. In these cases, the application can be made before they need to start construction and the alternatives can be presented to Council for consideration.

Amend Building Code Regulations

It should be noted that staff does not currently have the legislative authority to withhold a Building Permit pending receipt of this documentation, however it is anticipated that most developers will be willing to provide the necessary details. Having said that, there will be situations where this information is not submitted. In these cases it would be preferable to be able to withhold the Permit. In order to obtain this authority the Nova Scotia Building Code Regulations need to be amended. With Council's endorsement, the Province will be asked to undertake this amendment.

Benefits of Amended Process

- Developers will be required to consider the Noise By-law early in the project planning stages, therefore there should be less requests for exemptions;
- When a request for an exemption is made, Council will be presented with the alternative Project Plan to consider, as well as the developer's justification for the requested exemption; and
- There should be fewer violations of the By-law, since there will be sufficient time to adjust the project schedule or obtain an exemption.

Benefits of Legislative Amendment

- If the Building Code Regulations are amended, the HRM Building By-law can be amended to enable staff to withhold issuance of a Building permit pending receipt of documentation confirming compliance with the Noise By-law.

BUDGET IMPLICATIONS

There are no budget implication of this report.

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

▶ Option 1

Implement the Administrative Procedures and seek amendments to Nova Scotia Building Code Regulations enabling HRM to withhold Building Permit Approval pending confirmation of compliance with the Noise By-law. This is the recommended course of action.

▶ Option 2

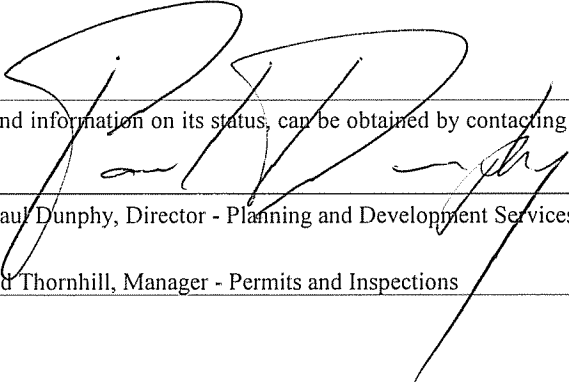
Implement the Administrative Procedures without seeking amendments to the Nova Scotia Building Code Regulations. This course of action is not recommended because staff would be obliged to continue to issue Building Permits in cases where there is no documented plan to comply with the Noise By-law or having an exemption from Council.

ATTACHMENTS

Resolution to UNSM

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.

Report Approved by:



Paul Dunphy, Director - Planning and Development Services

Report Prepared by:

Ed Thornhill, Manager - Permits and Inspections

490-4480

ATTACHMENT 1

**UNSM Resolution requesting amendments to the
Nova Scotia Building Code Regulations
to enable HRM to withhold issuance of a Building Permit pending
confirmation of compliance with the Noise By-Law.**

WHEREAS the Province of Nova Scotia Building Code Regulations made under Section 4 of the Building Code Act, R.S.N.S., 1989, c. 46

AND WHEREAS HRM has amended the construction approval process for large projects to include an assessment of the “construction methodology” proposed by the applicant which takes into consideration the Noise By-Law;

AND WHEREAS HRM does not have the legislative authority to withhold a Building Permit pending receipt of the above noted documentation;

THEREFORE BE IT RESOLVED that the UNSM request the Province of Nova Scotia to amend the Building Code Regulations to enable HRM to withhold issuance of a Building Permit pending confirmation of compliance with the Noise By-Law.