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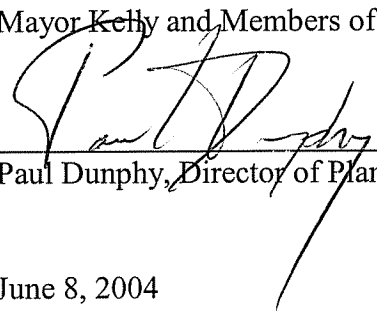


PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Halifax Regional Council**  
**May 17, 2005**

**TO:** Mayor Kelly and Members of Halifax Regional Council

**SUBMITTED BY:**

  
Paul Dunphy, Director of Planning and Development Services

**DATE:** June 8, 2004

**SUBJECT:** Development Agreements Without Sunset Clauses

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## INFORMATION REPORT

### ORIGIN

April 25, 2005 request at Regional Council by Councillor Meade for a report on outstanding development agreements that do not have project completion time limits, or "sunset" clauses.

### BACKGROUND/DISCUSSION

As part of the motion made by Councillor Meade, Regional Council requested that staff:

- conduct an inventory of approved development agreements and report back on those which do not contain sunset clauses; and
- provide legal advice as to the status of outstanding agreements.

Additionally, Councillor Uteck requested that staff report on whether or not project completion time limits can be imposed through building permits for construction projects. This request is in relation to the construction of a building in South end Halifax which has been occurring over an extended period of time.

In response to the first aspect, staff is in the process of reviewing the municipal development agreement registry in order to identify which development agreements have not been acted upon. This is expected to be completed within the next two weeks after which a report will be provided to Council's May 24<sup>th</sup> meeting.

In response to the question on the legal validity of outstanding development agreements, this matter was the subject of a previous information report submitted to Regional Council in June, 2004. A copy of the June, 2004 report is attached for the information of Council.

As for the matter of imposing time limits on construction projects as part of building permits, this is a separate matter from that pertaining to development agreements. Consequently, this will be addressed in a separate report which will be submitted to Council's May 24<sup>th</sup> meeting.

### **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.

### **ALTERNATIVES**

None.

### **ATTACHMENTS**

Attachment A - Information Report dated June 18, 2004

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 Prepared by: Jim Donovan, Manager of Planning Applications, 490-6782

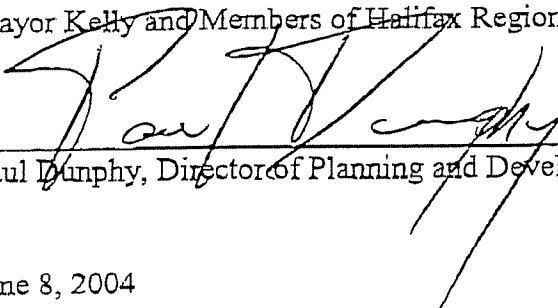


PO Box 1749  
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ATTACHMENT A

Halifax Regional Council  
June 15, 2004

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:   
Paul Dunphy, Director of Planning and Development Services

DATE: June 8, 2004

SUBJECT: Time Limits on Development Agreements

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INFORMATION REPORT

ORIGIN

April 6, 2004 request at Regional Council by Councillor Meade for a report on whether project completion time limits can be made effective retroactively in development agreements.

BACKGROUND/DISCUSSION

It is common practice of the Municipality to specify a time period in development agreements under which an approved development can be expected to be carried out. Such provisions, commonly referred to as "sunset" clauses, help to ensure that development projects are carried out within a period of time that can be considered reasonable by community standards based on the extent of the project. If a project does not proceed within the specified time, any extension of the rights extended by the development agreement must be approved by Council, otherwise Council may discharge the agreement and any rights extended by it become null and void.

Not all development agreements in effect, however, include sunset clauses. Many of the agreements approved prior to the enactment of the *Municipal Government Act* do not specify a time frame in which an approved development project must be carried out. Councillor Meade's request relates to an agreement entered between Halifax County Municipality and Horst and Marianne Schaffner where no sunset clause was included. The agreement remains legally in effect and the project (resort and marina) approved under that agreement was never carried out. An application has been made by a new owner to change the use approved under that development agreement with another use governed by a new agreement.

A development agreement is a legally binding contract between consenting parties - the Municipality and the property owner. An agreement remains in effect until discharged by Council. A Council may discharge a development agreement, in whole or in part, in accordance with the terms of the agreement or with the concurrence of the property owner. The Municipality is not legally entitled to unilaterally discharge an agreement.

**Conclusion**

The Municipality is obliged to honour development agreements that were duly approved by pre-existing municipal units. Although most projects approved under early development agreements have been carried out as anticipated, this is not the case in all instances. Developments approved under agreements which do not include a sunset clause can, in essence, remain not carried out for an indefinite period of time. In some cases, such as the one which prompted this report, a new owner may decide to seek approval of another land use not provided under an existing agreement. This provides opportunity to discharge an agreement in favour of one that permits a development that may be more in keeping with contemporary land use policies and community standards.

**BUDGET IMPLICATIONS**

None.

**FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN**

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**ALTERNATIVES**

None.

**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.

Report Prepared by: Jim Donovan, Manager of Planning Application, 490-6782  
Gail Harnish, Admin/PAC Coordinator, 490-4937