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Item No. 7

Halifax Regional Council
February 5, 2008

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: *ME Donovan*

ME Donovan, Director Legal Services & Risk Management

DATE: January 30, 2008

SUBJECT: Land Use By-law Prosecution

INFORMATION REPORT

ORIGIN

On November 22, 2007, the Provincial Court imposed a \$16,000 fine for the stockpiling of construction material by Silco Contracting Limited, recognized agent, Gerald Arthur Silver, on residential property on the Cow Bay Road, Eastern Passage in an R-1 Zone.

BACKGROUND/DISCUSSION

The property in question, a vacant lot between 189 and 209 Cow Bay Road, is approximately 10 acres in size and zoned R-1. The property is owned by Silco Contracting Limited. Between March 29, 2007 and April 13, 2007, Silco Contracting Limited transported crushed gravel to and from its property, a use not permitted in an R-1 Zone. Large trucks brought the gravel to the property, where it was placed in a large pile. Other trucks were loaded with the gravel and it was transported to Silco Contracting Limited's projects a couple of kilometers away. There were about 25 to 40 large trucks back and forth from the property each day.

The Development Officer provided Silco Contracting Limited with a Notice To Comply on March 29, 2007, in spite of which the operation continued in violation of the Land Use By-law and the Notice To Comply until April 13, 2007.

As a result of failing to comply with the Notice, Silco Contracting Limited was charged with allowing stockpiling of construction material in an R-1 zone, contrary to 3.5(a) and 6.1 of the Halifax Regional Municipality Land Use By-law - Land Use By-law for Eastern Passage/Cow Bay.

They were summoned to appear in Court on June 19, 2007. After failing to appear, the Court entered a not guilty plea on their behalf and set the trial for November 22, 2007. Silco also failed to attend on the trial date.

A resident, who lives close to the property, testified in regard to the effect the operation had on his family. During the time period of the offence, the resident's wife was undergoing medical treatment and required rest during the day. The almost constant disturbance caused by the company made it very difficult, if not impossible, for his wife to get any rest.

The Court found that Silco Contracting Limited had "flagrantly" violated the law with no regard for the surrounding community. In recognition of Silco Contracting Limited's open disregard of the law and the significant impact on the residents, the Court imposed a substantial fine of \$16,000.

BUDGET IMPLICATIONS

N/A

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

N/A

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

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