



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

Item No. 10.1.3
Halifax Regional Council
January 24, 2012

TO: Mayor Kelly and Members of Halifax Regional Council

Original Signed

SUBMITTED BY:

Richard Butts, Chief Administrative Officer

Original Signed

Mike Labrecque, Deputy Chief Administrative Officer

DATE: December 28, 2011

SUBJECT: Encroachment Agreement – Halifax Women's Housing Cooperative,
2042–2044 Creighton St., Halifax

ORIGIN

Application by Monk Renovations & Painting, on behalf of the Halifax Women's Housing Cooperative

RECOMMENDATION

It is recommended that Halifax Regional Council approve the Encroachment Agreement, as provided in Attachment A, to allow the Halifax Women's Housing Cooperative to install new stairs extending into the sidewalk area of Creighton Street.

BACKGROUND

The Halifax Women's Housing Cooperative (HWHC), a not-for-profit, low income housing group, proposes to make improvements to the existing main entrance stairs of 2042-2044 Creighton Street, Halifax. The existing stairs have deteriorated, are unsafe, and do not comply with the requirements of the National Building Code of Canada 2010 (NBC).

They propose to replace the stairs with new ones which project closer to the curb than the existing stairs. The existing stairs encroach a distance of 0.64m into the street right-of-way and have done so since the existence of the building. As outlined in the Encroachment By-Law (By-law E-200), permanent encroachments, located upon and under the HRM street right-of-way, require an encroachment agreement as well as authorization by Regional Council.

DISCUSSION

These types of encroachments are quite common in older neighbourhoods as they pre-date building code standards that require doors to have access to a landing rather than directly to a run of stairs. Other similar encroachments exist throughout peninsular Halifax and downtown Dartmouth for this reason.

The HWHC had a Loss Control Survey completed by ThermoLine Technologies Inc. for the Co-Operators General Insurance Company on March 26, 2010. The resulting report notes "The step at the main entry to unit 2042-2044 is slightly tilted and of such an uneven height as to be considered a dangerous and serious hazard to occupants and visitors. This step should be replaced with a new step in accordance with the current National Building Code of Canada requirements."

Therefore, recognizing that the existing stairs are dangerous and fail to meet the NBC, the proposed encroachment will provide the ability to construct new, safe and Code compliant stairs. Staff recommends that the proposed encroachment be approved provided it does not extend further than 1.09m into the sidewalk and that an area of grassy boulevard between the sidewalk and curb become a hard surface at the cost of the applicant. The hard surface area shall be 1.09m by 2.52m and will ensure that there is a clear, minimum, continuous sidewalk width of 1.97 metre for all pedestrians to pass the encroachment without any difficulties.

The area of the proposed encroachment will be a total of 2.16 square metres (1.09m x 1.98m). In accordance with By-Law E-200, the encroachment will be subject to an annual encroachment fee of \$21.60 (\$10.00 per square metre).

Should Council approve the encroachment, the attached draft encroachment agreement would apply which provides for the following:

1. Construction and maintenance of the encroachment is to comply with the Streets By-Law (By-law S-300).

2. If requested by HRM, the building encroachment would be removed by the Halifax Women's Housing Cooperative at their expense.
3. Record information will be provided in paper and electronic format to HRM.

The encroachment agreement would be effective concurrently with an approved Streets and Services Permit.

BUDGET IMPLICATIONS

Should Regional Council approve the encroachment, cost centre R112-4912, Right of Way Approval – Signs and Encroachments, will be used to record this new annual revenue.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

1. Council may choose to approve the encroachment agreement as proposed. Staff recommends this option for the reasons outlined in the report.
2. Council may choose to approve the encroachment and include other terms and conditions in the encroachment agreement as it deems appropriate as per clause 10(a) of By-law E-200. Such modifications may require further discussion with the applicant.
3. Council may choose to not approve the encroachment agreement. Staff does not recommend this option as the encroachment is needed to gain safe access to the dwelling and to conform to the National Building Code of Canada.

ATTACHMENTS

Attachment A: Draft Encroachment Agreement
Attachment B: Encroachment Request

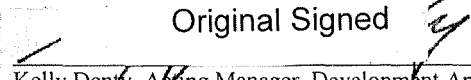
Encroachment Agreement
Halifax Women's Housing Cooperative
Creighton St., Halifax

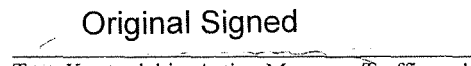
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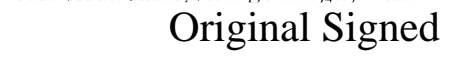
January 24, 2012

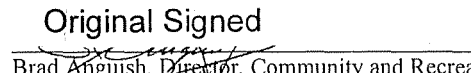
A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

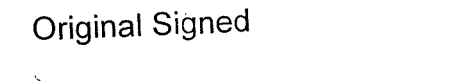
Report Prepared by: Steven York, Engineering Technician, 490-6250 & Ashley Blissett, Development Engineer, 490-6848

Report Approved by: 
Original Signed
Kelly Denty, Acting Manager, Development Approvals, 490-4800

Report Approved by: 
Original Signed
Taso Koutoulakis, Acting Manager, Traffic and Right-of-Way, 490-4816

Report Approved by: 
Original Signed
Ken Reashor, Director, Transportation and Public Works, 490-4855

Report Approved by: 
Original Signed
Brad Anguish, Director, Community and Recreation Services, 490-4933

Financial Approval by: 
Original Signed
James Cooke, CGA, Director of Finance/CFO, 490-6308

Attachment A - Draft Encroachment Agreement

This **Encroachment License Agreement** made this day of , 2012

BETWEEN:

HALIFAX REGIONAL MUNICIPALITY

(hereinafter referred to as "HRM")

Of the One Part

and

HALIFAX WOMEN'S HOUSING COOPERATIVE

(hereinafter referred to as "HWHC")

Of the Other Part

Recitals

WHEREAS Halifax Women's Housing Cooperative wishes to install building features that project into the public right-of-way at 2042-2044 Creighton Street, Halifax, for private use;

AND WHEREAS by resolution of the Halifax Regional Municipal Council on _____, 2012, the Halifax Regional Municipality agreed to give Halifax Women's Housing Cooperative an encroachment license in accordance with the terms and conditions set out in Halifax Regional Municipality By-Law E-200, being the Encroachment By-law, and as contained in this license agreement.

NOW THEREFORE in consideration of the benefits accrued to each party from the covenants herein contained, the Parties agree as follows:

Definitions

1. In this agreement, unless the context otherwise requires:
 - (a) "HRM" means the Halifax Regional Municipality;
 - (b) "Engineer" means the Engineer as defined by the *Halifax Regional Municipality Charter*; and

- (c) "HWHC" means Halifax Women's Housing Cooperative.

License

2. Subject to the terms of this encroachment license agreement, HRM hereby grants to HWHC the non-exclusive right by its officers, servants, agents and contractors at all times to construct on or over that portion of Creighton Street, Halifax identified on Schedule "A" to construct and maintain stairs, as well as to replace the grassed boulevard within the street right-of-way.

Relocation

3. If necessary for municipal purposes, the stairs must be relocated within the street right-of-way if requested by HRM, such relocation will be at the expense of HWHC. Should HWHC wish to relocate the stairs, such shall be done only upon receipt of the written consent of HRM, which consent shall not be unreasonably withheld and said relocation shall be at the expense of HWHC.

Permits

4. (1) HWHC and its contractors and agents agrees to comply with all municipal by-laws including the Streets By-Law S-300, as amended from time to time, for the construction of stairs, replacement of the grassed boulevard and all subsequent work which involves the use of the HRM right-of-way.

(2) The application for a Streets & Services Permit shall include an engineering plan and profile stamped by a professional engineer of the proposed stairs and grassed boulevard to be replaced.

(3) The final location of the stairs shall be subject to the approval of the Engineer.

(4) For the purposes of the construction of the stairs and replacement of the grassed boulevard, HWHC agrees to engage the services of a professional engineer, licensed to practice in the Province of Nova Scotia, and to file with the Engineer a written undertaking stating that the professional engineer is engaged by HWHC to supervise and set out the work, that the work will be done in accordance with the approved plans, and that the project shall be subject to full time inspection and approval by the professional engineer or his representative.

(5) For the purposes of the construction of the stairs and replacement of the grassed boulevard, HWHC agrees to arrange a preconstruction meeting with HRM Staff.

(6) For the purposes of the construction of stairs and replacement of the grassed boulevard HWHC shall provide HRM with a certificate from a professional engineer certifying that all works are completed according to the approved drawings, any applicable municipal services specifications, standard drawings and approved changes.

Record Drawings

5. HWHC shall provide a copy of the record drawings immediately upon completion of the work, and immediately upon completion of any relocation.

Indemnity

6. HWHC agrees to indemnify and save HRM harmless from all claims, liabilities and expenses of any kind in any way related to or connected with the grants of the rights set forth in this license agreement or from the existence or operation of the stairs however caused, except to the extent that the loss arises out of the gross negligence of HRM.

Fees

7. HWHC shall pay the fees set out in Encroachment By-Law E-200, and for the purpose of the calculation of said fees, it is agreed that the space occupied by the stairs is 2.16 square metres and said fees to be paid by March 1st annually.

Occupational Health & Safety Act

8. HWHC agrees to comply with the requirements of the Occupational Health & Safety Act and all regulations enacted pursuant thereto. Specifically HWHC agrees to exercise the due diligence required by the Act in ensuring that the requirements of the Occupational Health & Safety Act and its regulations are followed by its contractors or agents.

Termination

9. (1) Either party may terminate this license agreement at any time.
- (2) Upon termination of the license agreement, HWHC shall remove the stairs from the street right-of-way.

Notices

10. Any written notice or communication relating to the administration of this agreement to be given or delivered by one party to the other shall be deemed to be duly given or delivered by hand, by fax or by courier to the following addresses or such other address that may subsequently be provided:

Halifax Regional Municipality
Director of Public Works and Transportation
PO Box 1749
Halifax, NS B3J 3A5

and

Halifax Women's Housing Cooperative
2042 Creighton Street
Halifax, NS B3K 3R2

Legal notices in respect of HRM must be given in compliance with the *Halifax Regional Municipality Charter*.

Assignment

11. This agreement may not be assigned without the prior written approval of HRM.
12. This agreement shall enure to the benefit of and be binding upon the parties hereto, their agents, respective successors and permitted assigns.

IN WITNESS WHEREOF the parties hereto have executed this License agreement as of the day and year first above written.

HALIFAX REGIONAL MUNICIPALITY

Witness

Mayor Peter Kelly

Witness

Municipal Clerk

HALIFAX WOMEN'S HOUSING COOPERATIVE

Witness

Witness

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX, NOVA SCOTIA

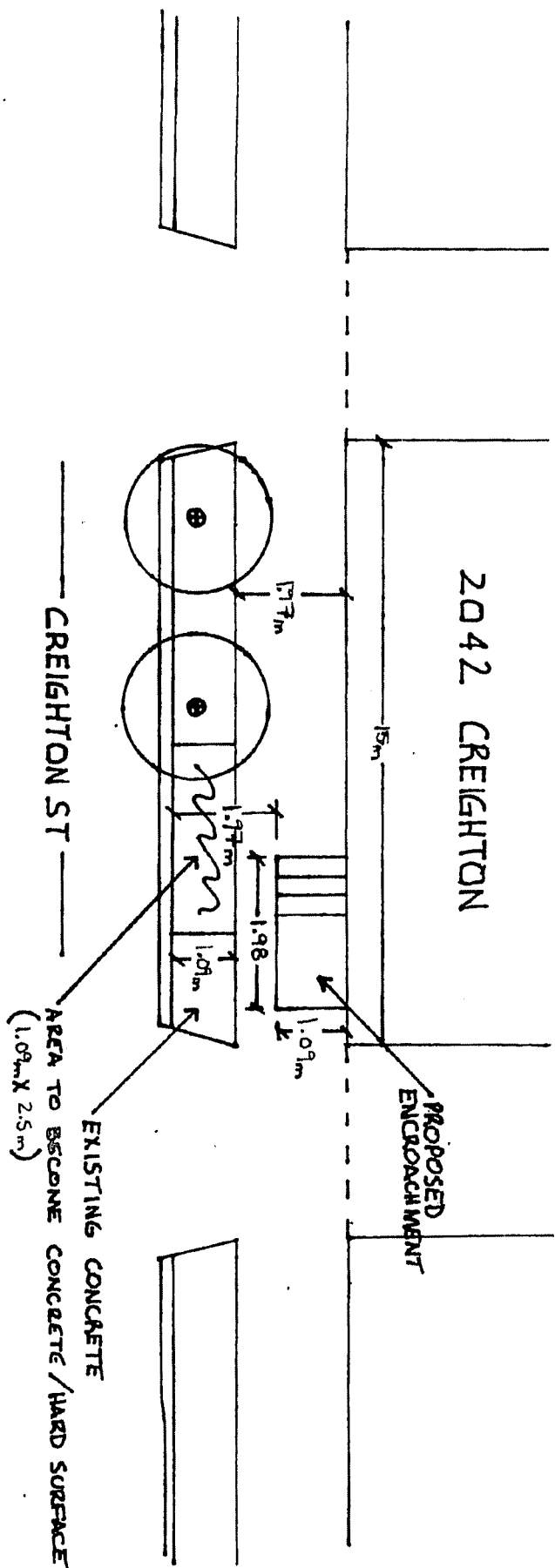
ON THIS ____ day of _____, A.D., 2012, before me, the subscriber personally came and appeared _____ a subscribing witness to the within and foregoing Indenture, who, having been by me duly sworn, made oath and said that **Halifax Women's Housing Cooperative**, one of the parties thereto, signed, sealed and delivered the same in his presence.

A Commissioner of the Supreme Court of Nova Scotia

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX, NOVA SCOTIA

ON THIS ____ day of _____, A.D., 2012, before me, the subscriber personally came and appeared before me _____ the subscribing witness to the within and foregoing Indenture, who, having been by me duly sworn, made oath and said that the **Halifax Regional Municipality**, one of the parties thereto, caused the same to be executed and its Corporate Seal to be thereunto affixed by the hands of Peter Kelly, its Mayor and Cathy Mellett, its Municipal clerk, its duly authorized officers in his presence.

A Commissioner of the Supreme Court of Nova Scotia



NOTES:

- PROPOSED STAIRS TO BE BUILT TO NBC OF CANADA CORRENT EDITION.
- CONTRACTOR TO REMOVE GRASSY SECTION OF BOULEVARD AND REPLACE WITH CONCRETE/HARD SURFACE AS PER H&M REDBOOK DETAIL 40

ENCROACHMENT SITEPLAN
2042 CREIGHTON ST
SCALE: N.T.S
DATE: NOVEMBER 25TH 2011
DRAWN: S. YORK

MONK Renovations & Painting

Date: May 13, 2011

**Halifax Regional Municipality
Development & Engineering Dept.**

Attn: Ashley Blissett, P.Eng.

Re: New Entry Stairs at 2042 Creighton St. Hfx

MONK Renovations & Painting is working with Halifax Women's Coop to renovate a set of entry steps, at 2042 Creighton St, Hfx., which are in dire need of repair.

The existing stairs have the following concerns:

- Due to the excessive and irregular rise and run of each step they do not meet the NBC
- The current step poses significant hazard to the occupants, visitors or any person entering the property due to the sever pitch of the step and irregular construction

The Coop is requesting a permit / permanent encroachment license to have the existing steps replaced with a set of steps that will meet the NBC and be safe for the families living at the home, visitors and service people entering the property.

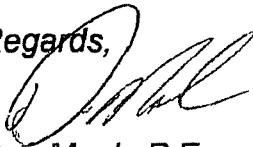
In order to achieve a safe entry step it is necessary for the step to permanently encroach on the sidewalk of HRM. This is unavoidable to achieve NBC standards and safety.

It may be noted that several other properties on Creighton St and surrounding area have similar steps to that being proposed and would therefore not set any precedent that doesn't already exist.

We have attached pictures of the existing building, pictures of other properties with similar steps and a sketch of the proposed steps for 2042 Creighton St. and a letter from the president of the Halifax Women's Coop, requesting the permit.

We are asking HRM to provide a permit to proceed with this entry step renovation to address a serious concern for the safety of the occupants of this property.

Regards,



Dan Monk, P.Eng.

MONK Renovations & Painting

Kim Robertson
2042 Creighton Street
Halifax, NS B3K 3R2

May 9, 2011

Halifax Regional Municipality
Development Services

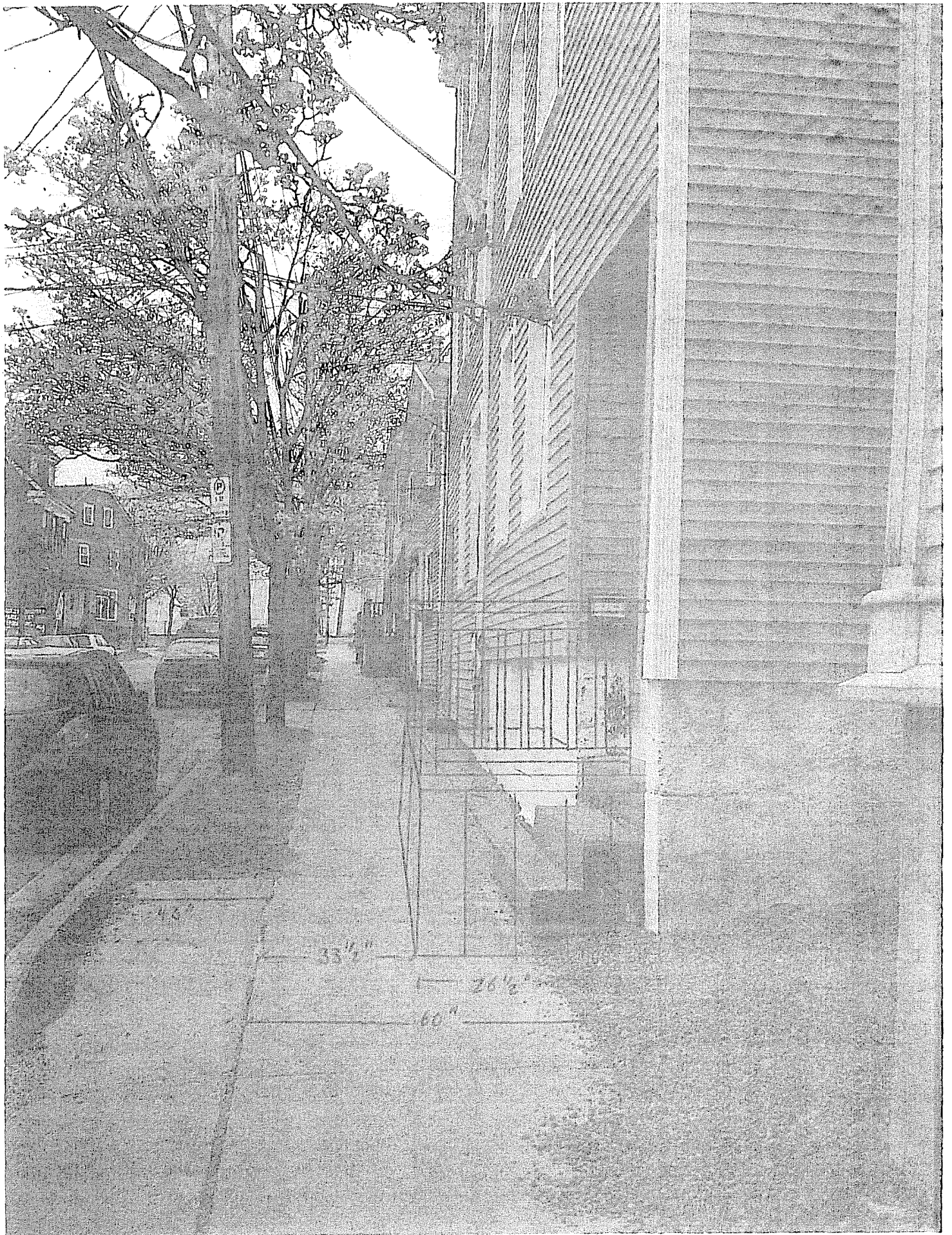
To Whom It May Concern:

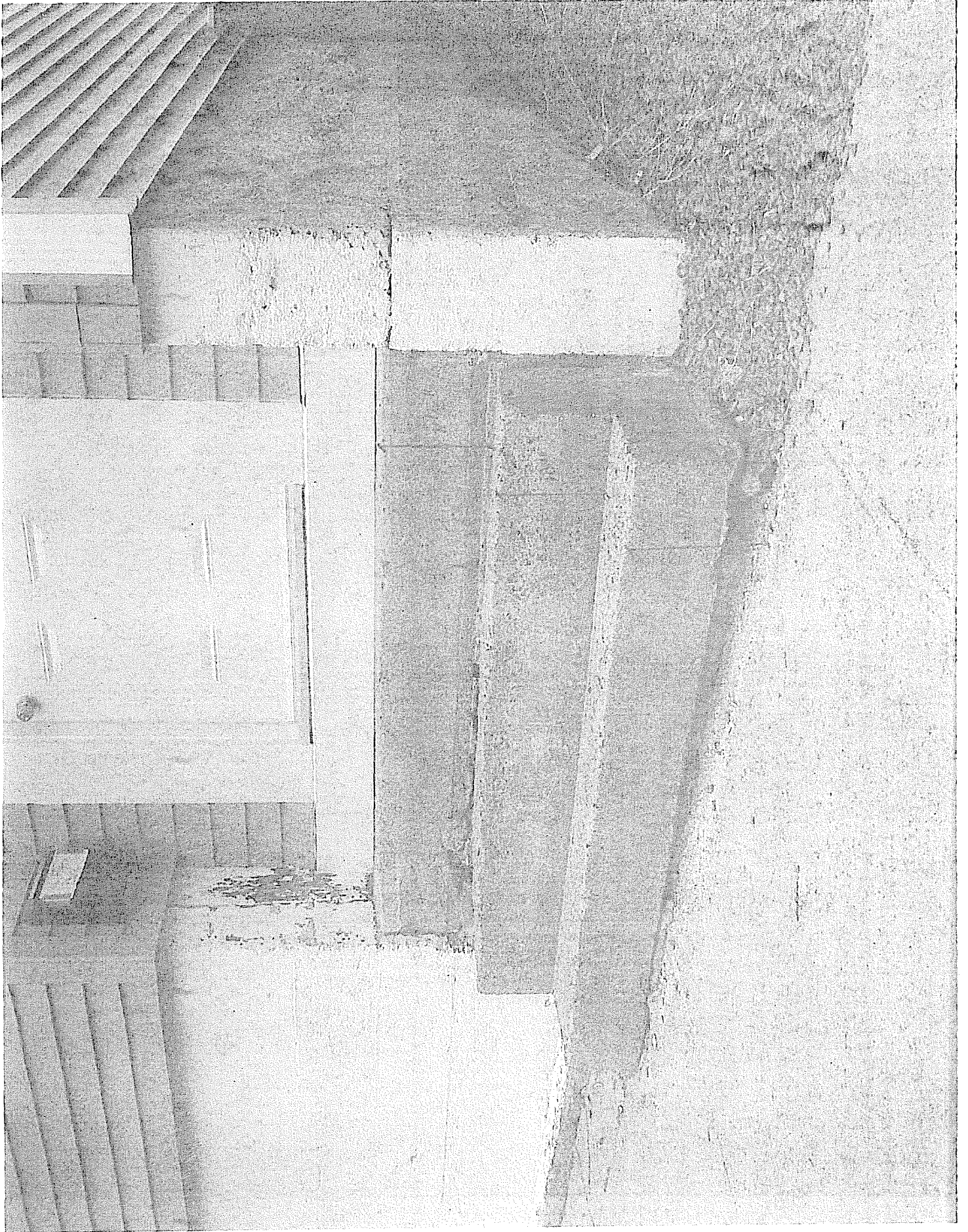
The Halifax Women's Housing Co-op located at 2042 Creighton Street is requesting a permit to construct new steps for the reasons outlined below:

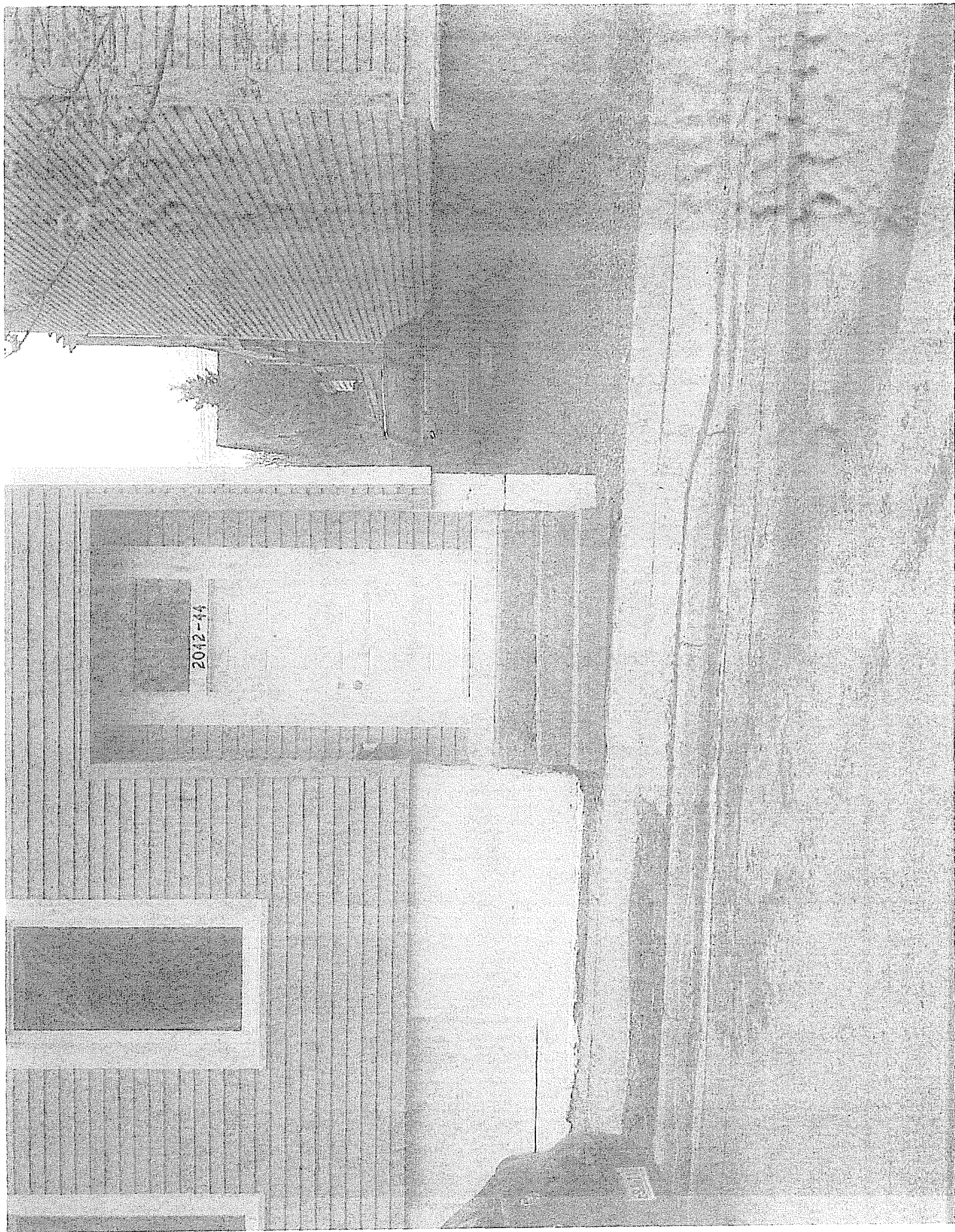
- Current steps are not code compliant
- Current steps are steep and of variable height. They are a tripping hazard and unsafe for the women and young children living on the property.
- Current steps have been cited by the Co-op's insurance company as dangerous and requiring replacement
- New steps will match those of adjacent neighbors

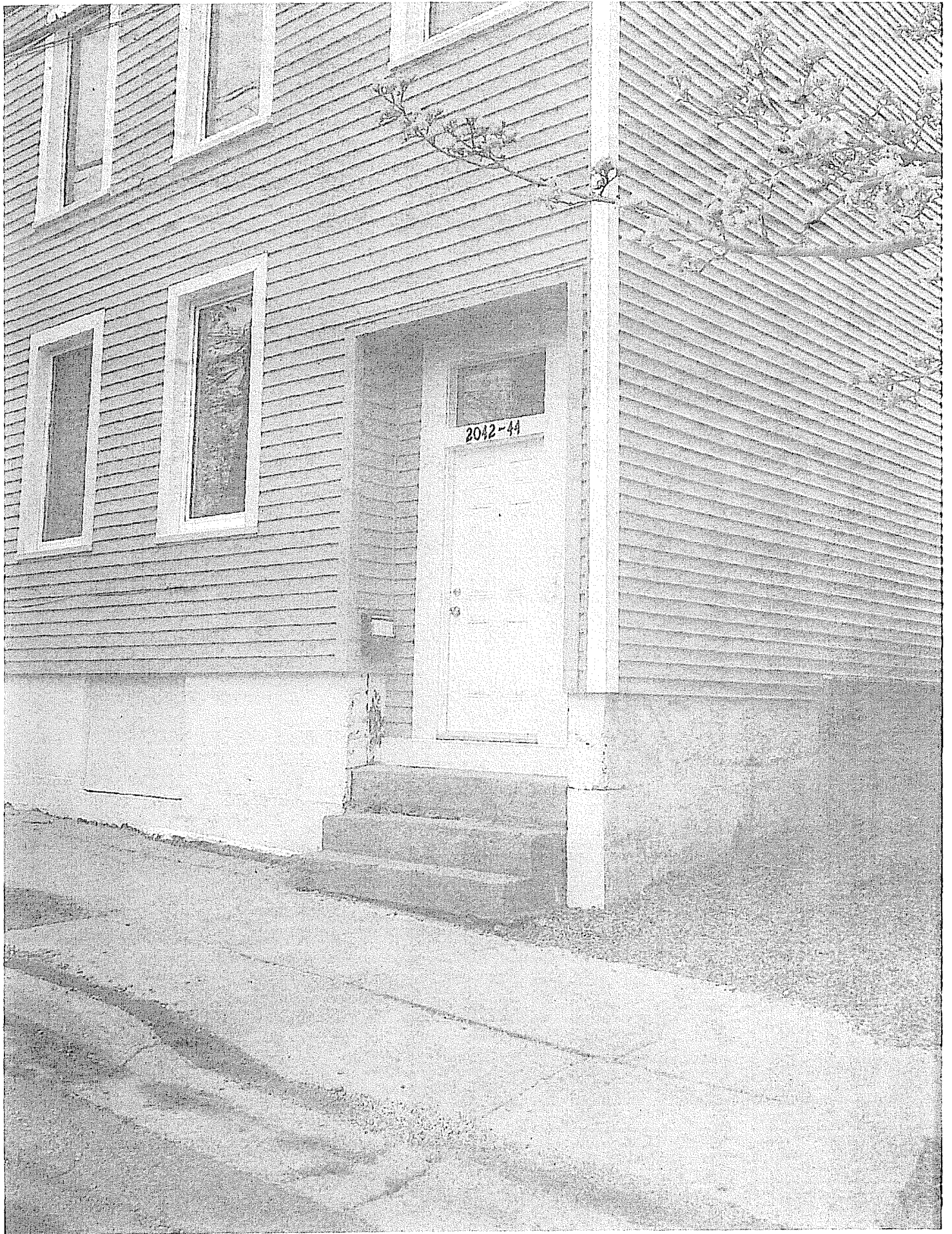
Many thanks for your attention to this matter,

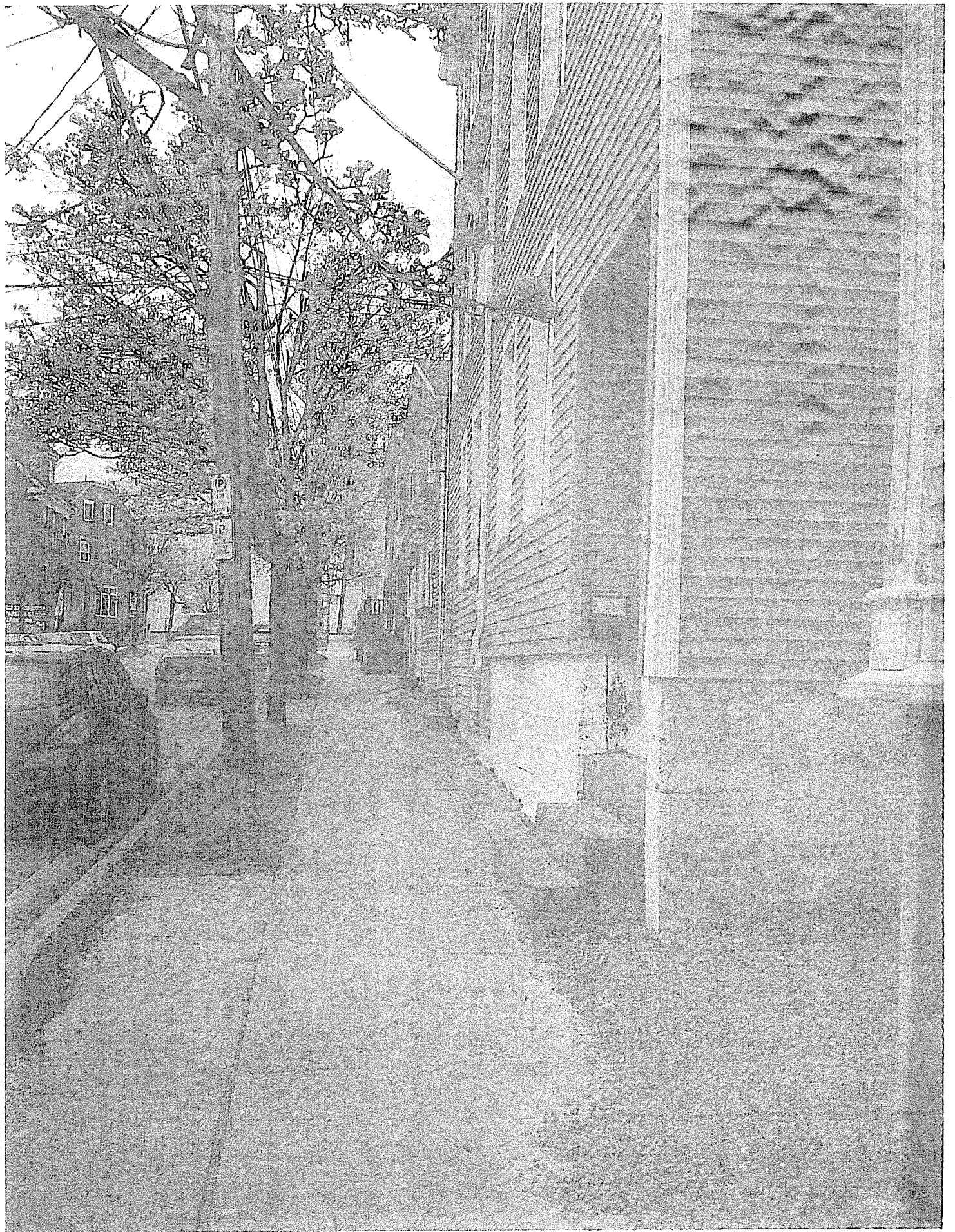
Kim Robertson, President
Halifax Women's Housing Co-op











2048 Creighton St - Existing Step



2052 Creighton St - Existing Step

