


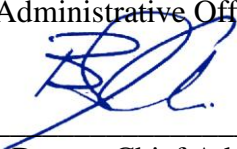
Item No. 9.1 (ii)
Halifax Regional Council
August 14, 2012

TO: Mayor Kelly and Members of Halifax Regional Council

Original signed by 

SUBMITTED BY: _____

Richard Butts, Chief Administrative Officer

Original signed by 

Brad Anguish, Acting Deputy Chief Administrative Officer

DATE: July 26, 2012

SUBJECT: Noise By-Law Exemption - University of King's College Orientation Week

ORIGIN

July 18, 2012 – Staff received an application for an exemption from By-Law N-200, Respecting Noise, from Ms. Gabrielle Rekai, Coordinator of King's Orientation Week 2012, outlined as Appendix A.

RECOMMENDATION

It is recommended that Halifax Regional Council approve the University of King's College Orientation application for an exemption from the provisions of the Noise By-Law pursuant to the contents of this report and any matters raised at the public hearing.

BACKGROUND

In September, 1999 HRM Council adopted By-Law N-200, Respecting Noise. The By-law states under the **General Prohibition** section:

3. (1) No person shall engage in any activity that unreasonably disturbs or tends to disturb the peace and tranquility of a neighbourhood.

(3) For the purpose of a prosecution pursuant to subsections (1) or (2), evidence that one Neighbour is unreasonably disturbed by a noise is prima facie evidence that the neighbourhood is unreasonably disturbed by the noise.

Section 6 of the By-Law allows for any person to send an application to Regional Council requesting an exemption from any or all provisions of the Noise By-Law for which that person may be prosecuted. The By-Law states that an applicant or any person opposed to an application may be heard at a session of Council. Notice of the Council Session is required to be mailed to assessed property owners located within 100 feet of the properties which are subject to the hearing.

In deciding whether or not to grant an exemption, Council is to give consideration to:

- the social or commercial benefit of the proposed activity to the municipality;
- the viewpoints of community residents;
- the proposed hours of operation of the proposed noise-emitting activity; and
- the proposed duration of the subject activity.

DISCUSSION

University of King's College Orientation is being held from Saturday, September 1, 2012 to Saturday, September 8, 2012. A copy of the original request is included as Appendix A. The site for the outdoor concert is located on the steps of the King's Library in the interior of the King's College campus (which is referred to as "The Quad") at 6350 Coburg Road, Halifax. Maps of the King's College campus and the surrounding area are included as Appendix B and C. Set up for the event will include sound checks. The portions of the event for which an exemption is requested from By-Law N-200 Respecting Noise are as follows:

Operation:

Saturday, September 1, 2012; 7:00 p.m. -12:00 a.m. – outdoor concert

Friday, September 7, 2012; 7:00 p.m. -12:00 a.m. – outdoor concert

University of King's College Orientation is requesting an exemption to the by-law as the associated noise from the event includes live band(s) and a sound system which may be in violation of the following provision of By-Law N-200, Respecting Noise: Section 3, Part 1 which states "*No person shall engage in any activity that unreasonably disturbs or tends to disturb the peace and tranquility of a neighbourhood*".

Notice of the Council Session at which the hearing is proposed to take place has been sent to property owners within 100 feet of the location mentioned above.

Under subsections 6(3) and (5) of the Noise By-Law, Council may consider any matters it deems appropriate at the hearing and either reject an application or approve it with or without conditions.

An excerpt from the Noise By-Law detailing the exemption process is attached as Appendix D.

BUDGET IMPLICATIONS

There are no budget implications

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.

COMMUNITY ENGAGEMENT

University of King's College Orientation is an annual event and organizers advised they will consult with neighbouring properties to provide notice of the event. Halifax Regional Police confirmed that a number of noise complaints have been received during past orientation weeks. There are joint efforts between Halifax Regional Police and Dalhousie University to respond to the complaints.

ENVIRONMENTAL IMPLICATIONS

Discussion took place with the event organizer to confirm appropriate waste and recycling practices will be provided on site.

ALTERNATIVES

There are a number of alternatives available to Council in considering this application:

1. Approve the application without conditions;
2. Approve the application with conditions; or
3. Reject the application in its entirety.

ATTACHMENTS

Appendix A: July 18, 2012 application for Exemption from By-Law N-200, Respecting Noise.

Appendix B: Map of University of King's College

Appendix C: Map of surrounding area of King's College

Appendix D: Excerpt from By-Law N-200 respecting Noise re: Granting Exemptions by Council.

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

Report Prepared by: Tanya Phillips, Manager By-Law Standards, 490-4491

Report Approved by: _____
Jim Donovan, Manager, Municipal Compliance, 490-6224

Report Approved by: _____
Brad Anguish, Director of Community and Recreation Services, 490-4933

Original Signed

APPENDIX A

July 18th, 2012

Erin Dobson
HRM Bylaw Standard
P.O. Box 1749
B3J 3A5

Dear Ms. Dobson,

On behalf of University of King's College Orientation Week and the University of King's College Students' Union I present a formal request for an exemption from Bylaw N-200 *Respecting Noise*, between the hours of 7pm and midnight on September 1st and 7th, 2012.

University of King's College Orientation Week will be taking place between Saturday, September 1st and Saturday, September 8th. The week is made up of a series of events which are aimed at integrating new students into the community and introducing them to King's and Halifax through a week-long marathon of exciting activities. This year we are hoping to include two outdoor concerts, the first taking place on Saturday, September 1st and the other on Friday, September 7th.

Both events will be free concerts featuring performances by King's students and alumni and will be attended by 400-600 King's students and faculty. We wish to stage the concerts on the steps of the King's library at 6350 Coburg Rd., where events of this nature have taken place in the past. The concerts will both take place from 7:30 to 11:30pm with the exemption extending from 7-12 to account for soundcheck and dispersing the crowd afterward.

We believe that both of these events will be extremely beneficial to the incoming class as part of this introductory week. King's is a very small and tight-knit community with very limited space. Having events for all of the new first year students which also allow them to interact with the rest of the King's community is very difficult to do indoors, given the numbers, and our limited facilities. The Quad is the hub from which the King's community emanates, we believe that opening and closing Frosh Week festivities by providing live music in this space is a truly fitting introduction to their new home.

The King's Quad is a contained space with the surrounding buildings almost entirely inhabited by first year students. We recognize that aside from being bordered by Dalhousie Campus, beyond the quad there are private residences and we are very serious about respecting our neighbours. Prior to the scheduled events we will visit these private residences to speak directly with residents and inform them of the details of the events.

We believe that by taking these measures we can provide an excellent service to new members of our community with minimal inconvenience to others.

Thank you for considering this request.

Sincerely,

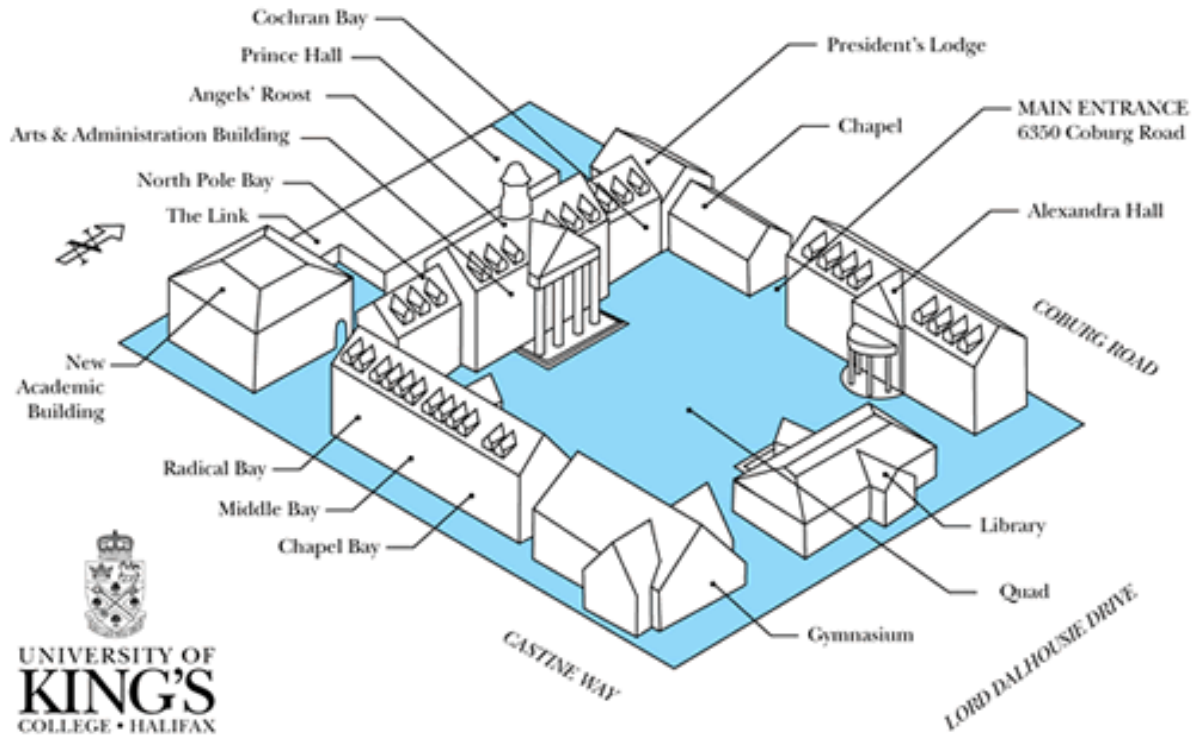
Gabrielle Re kai

King's Orientation Week 2012 Coordinator

King's Student's Union
6350 Coburg Rd.
Halifax, N.S.
(902)429-3399
kingsfroshweek@ksu.ca

APPENDIX B

University of King's College Campus



APPENDIX C

University of King's College and surrounding area



APPENDIX D

Excerpt from By-Law N-200 Respecting Noise re: Granting Exemptions by Council.

Grant Of Exemptions By Council

6. (1) Notwithstanding anything contained in this By-Law, any person may make application to Council to be granted an exemption from any of the provisions of this By-Law with respect to any emission of noise for which that person might be prosecuted; and Council, by resolution, may refuse to grant any exemption or may grant the exemption applied for or any exemption of lesser effect; and any exemption granted shall specify the time period, not in excess of six months, during which the exemption shall be effective and the exemption shall be in written form and shall include such terms and conditions as Council deems appropriate.
- (2) In deciding whether or not to grant an exemption, Council shall give consideration to the social or commercial benefit of the proposed activity to the municipality, the views of any residents of the municipality which may be expressed to Council, the proposed hours of operation of the proposed noise-emitting activity and the proposed duration of the subject activity.
- (3) In deciding whether or not to grant an exemption, Council shall give the applicant, and any person opposed to the application, an opportunity to be heard during a Council Session and may consider such other matters as it deems appropriate.
- (4) Notice of the time, date and purpose of the Council Session at which the hearing is proposed to take place shall be mailed to the assessed owner or owners as shown in the records of the Regional Assessment Office, of property located within 100 feet of the property which will be the subject of the hearing;
- (5) Any alleged breach by the applicant of any of the terms or conditions of any exemption granted by Council, shall be investigated by municipal staff, reported to Council in writing and Council shall determine whether or not a breach has taken place. If a breach has taken place, Council may pass a resolution revoking the exemption, without the necessity of giving notice of rescinding motion, and such exemption shall be null and void as of the passing of such resolution.