

**Item No. 9.1**

**Halifax Regional Council  
July 23, 2013**

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

**SUBMITTED BY:** Original signed by   
Richard Butts, Chief Administrative Officer

Original Signed by   
Mike Labrecque, Deputy Chief Administrative Officer

**DATE:** June 11, 2013

**SUBJECT:** Noise Exemption Request- SANDJAM Halifax

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**ORIGIN**

May 15, 2013 – Staff received an application for an exemption from By-Law N-200, Respecting Noise, by the World Beach Volleyball Host Society, outlined as Appendix A.

**LEGISLATIVE AUTHORITY**

By-Law N-200, Respecting Noise, Part 6; Grant of Exemptions By Council.

**RECOMMENDATION**

It is recommended that Halifax Regional Council approve the World Beach Volleyball Host Society 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 Section 3 of the **General Prohibition** section:

3. (1) No person shall engage in any activity that unreasonably disturbs or tends to disturb the peace and tranquillity of a neighbourhood.
- (2) Without limiting the generality of subsection (1), the activities listed in Schedule “A” during the prohibited times and places as set out therein are deemed to be activities that unreasonably disturb the peace and tranquillity 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.

Part 6 of the By-Law, “**Grant of Exemptions by Council**”, 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.

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

## **DISCUSSION**

SANDJAM Halifax is returning to the Halifax Waterfront in the Salter Street lot located at Salter Street and Lower Water Street. A temporary stadium is being constructed to host the event from Monday, August 12 to Sunday, August 18, 2013. The competition involves the Legends Cup tennis event on Monday, August 12, 2013 and the Canada Cup Beach Volleyball Tournament from August 15 – 18, 2013.

The construction and trucking of sand will be occurring between 9 a.m. to 8 p.m. on August 10-14, 2013. The portions of the construction for which an exemption is requested from By-Law N-200 Respecting Noise are:

Thursday, August 8, 2013: 6 p.m. – 12 a.m. (delivery of bleachers, tents, portable toilets, etc.)  
Friday, August 9, 2013: 8 a.m. - 11 p.m. (installation of bleachers)  
Monday, August 19, 2013: 8 a.m. – 12 a.m. (dismantling of bleachers)

The bleachers are being delivered from Montreal on August 8, 2013 and the construction of the bleachers is scheduled for August 9, 2013. Dismantling of infrastructure is taking place on August 19, 2013 to allow for sand removal and site clean-up the following day.

Noises in direct relation to the competition and event prior to 1:00 a.m. are exempt as per:

**Prescribed Exemptions, Part 4;**

- (2) Notwithstanding any other provisions of this By-law, this By-law shall not apply to:
- (g) Noises in relation to municipal parades, street dances or other community activities until one o'clock in the forenoon.

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 Salter Street and Lower Water Street location.

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.

**FINANCIAL IMPLICATIONS**

There are no financial implications.

**COMMUNITY ENGAGEMENT**

The World Beach Volleyball Host Society have contacted their closest neighbor to the event, Southwest Properties at Bishop's Landing to give notice and will also provide event information to the building tenants.

**ENVIRONMENTAL IMPLICATIONS**

Event organizers have confirmed appropriate waste and recycling practices will be followed. Containers will be provided on site to facilitate proper sorting, recycling, composting and garbage collection.

**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: May 15, 2013 Application for Exemption from By-Law N-200, Respecting Noise

Appendix B: Excerpt from By-Law N-200, Respecting Noise, re: Granting Exemptions by Council

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A copy of this report can be obtained online at <http://www.halifax.ca/council/agendas/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, Community and Recreation Services, 490-4933

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## APPENDIX A



World Beach Volleyball Host Society  
1549 Lower Water St. 3<sup>rd</sup> Floor  
Halifax, NS B3J 1S2  
May 15, 2013

Erin Dobson  
Regional Coordinator, Support Services  
By-Law Enforcement, Halifax Regional Police  
PO Box 1749  
Halifax, NS B3J 3A5

Dear Ms. Dobson:

This summer SANDJAM Halifax returning to the Halifax Waterfront for the event's first ever back to back appearance in the same city. This event will bring athletes and spectators from around the world to downtown Halifax and showcase our beautiful city. In order to deliver this world class event we will be building a temporary stadium on the waterfront in the Salter Block lot located at Salter St. and Lower Water St.

In our planning process we have identified that the construction, operation and removal of this venue will put us in violation of HRM By-Law Number N-200 Respecting Noise. We are requesting this letter be accepted as our formal request for an exemption to the above noted by-law for the period of Thursday, August 8<sup>th</sup>, 2013 to Tuesday, August 20<sup>th</sup>, 2013.

Our anticipated construction, operation and removal timeline is as follows:

*Construction:*

**Thursday August 8: 6pm – 12am**  
**Friday, August 9: 8am – 11pm**  
**Saturday August 10: 9am – 8pm**  
**Sunday, August 11: 9am – 8pm**  
**Tuesday, August 13: 9am – 8pm**  
**Wednesday, August 14: 9am – 8pm**

*Operation*

**Monday, August 12: 2pm – 11pm**  
**Thursday, August 15: 2pm – 11pm**  
**Friday, August 16: 2pm – 11pm**  
**Saturday, August 17: 2pm – 11pm**  
**Sunday, August 18: 2pm – 11pm**

*Removal*

**Monday, August 19: 8am – 12am**  
**Tuesday, August 20: 8am – 5pm**

We have been in contact with Southwest Properties regarding their Bishop's Landing property and are sharing event details with their tenants. We will await your response on moving forward with our application and presenting details of our event to HRM Council.

Sincerely,

Original signed by

Derek Martin  
President

## **APPENDIX B**

### **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.