



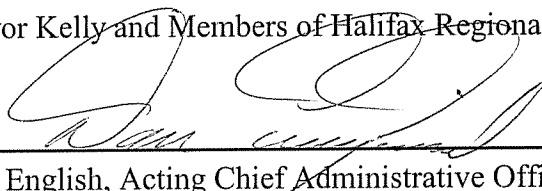
PO Box 1749
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Halifax Regional Council
August 26, 2003

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:



Dan English, Acting Chief Administrative Officer

DATE: August 20, 2003

SUBJECT: Noise By-Law Exemption Application - Dalhousie Student Union

ORIGIN

June 25, 2003, application for an exemption from By-Law N-200, Respecting Noise, by the Dalhousie Student Union, outlined in Appendix A.

RECOMMENDATION

It is recommended that:

1. Regional Council approve the Dalhousie Student Union's application for exemption from the provisions of the noise by-law pursuant to the contents of this report and any matters raised at the hearing.

BACKGROUND

In September, 1999 HRM Council adopted By-Law N-200, Respecting Noise. This by-law prohibits any person from engaging in any activity that unreasonably disturbs or tends to disturb the peace and tranquillity of a neighbourhood.

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 owners of property located within 100 feet of the property which is 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

The Dalhousie Student Union is holding an outdoor music concert as part of their Frosh Week activities which are scheduled in early September, for first year students to attend.

An application for exemption from the Noise By-Law has been submitted by Mr. Jordan Bensen, Fall Orientation Coordinator for the Dalhousie Student Union. The application details that:

- the concert will be held on Wednesday, September 3, 2003, between 7:00 pm and 11:00 pm;
- approximately 1500 to 2000 students will attend the concert
- the concert will take place in front of the Henry Hicks Academic Administration Building, located on the Dalhousie University Campus.
- the concert is a non-alcohol event;
- security will be on site for the duration of the concert; and
- the neighbouring citizens have been notified of the event through an information program as mentioned in the application.

The applicant is requesting an exemption to the by-law as the concert may be in violation of the following 2 provisions of By-Law N-200, Respecting Noise:

1. Section 3, Part 1 which states "No person shall engage in any activity that unreasonably disturbs or tends to disturb the peace and tranquillity of a neighbourhood"
2. Item 9, Part 2 of Schedule "A" which states that "Yelling, shouting, hooting, whistling or singing;" which if heard in a residential area is prohibited after 9:30 pm on Wednesdays.

Notice of the time, date and purpose of the Council Session at which the hearing is proposed to take place has been mailed to the assessed owner or owners as shown in the records of the Regional Assessment Office, of properties located within 100 feet of the Henry Hicks Academic Administration Building. A copy of the notice is included as Appendix C.

Halifax Regional Police have indicated that this event has taken place in past years and they have no record of having responded to any complaints from neighbouring citizens concerning the noise level emitting from the event.

Under subsections 6(3) and (5) of the 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.

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, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

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.
3. Reject the application in it's entirety.

ATTACHMENTS

- Appendix A: June 25, 2003, application for Exemption from By-Law N-200, Respecting Noise; issued by the Dalhousie Student Union.
- Appendix B: Excerpt from By-Law N-200 Respecting Noise re: Grant of Exemptions by Council.
- Appendix C: Copy of the notice sent to the neighbouring citizens, advising them of the hearing scheduled for the August 26th Regional Council Session.

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: Craig Horton, Project Controller, Community Projects 490-4432

Report Approved by: Allan Waye, General Manager, Environmental Management Services 490-6484



Brad Anguish, Director, Environmental Management Services

APPENDIX A

Dalhousie Student Union, Inc.



Incorporated in 1968

6136 University Avenue
Halifax, N.S. B3H 4J2
Tel (902) 494-1106
Fax (902) 494-6547

Jordan Benson
Fall Orientation Coordinator
Dalhousie Student Union
6136 University Avenue
Halifax, NS B3H 4J2

June 25, 2003

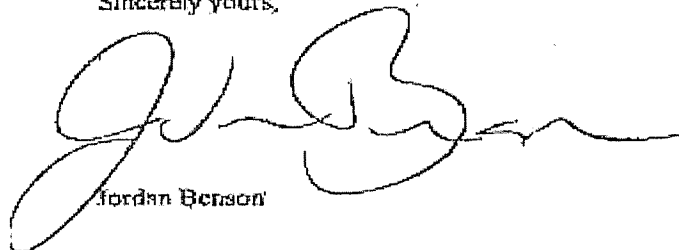
To Whom It May Concern:

This letter is in request to an exemption of the noise ordinance by-law number n-200. My name is Jordan Benson and I am the Fall Orientation Coordinator for Dalhousie University. As the Fall Orientation Coordinator, I am responsible for organizing and directing Frosh Week 2003. This year, with the influx of first year students from the Ontario double cohort, we are expecting 2,500 students to take part in orientation week events. Frosh Week focuses on familiarizing new students to the social and academic aspects of university life in Halifax in a fun and enthusiastic way.

We are planning to hold an outdoor concert on Wednesday, September 3, 2003 from 7pm until 11pm. This concert will be held in the quad in front of the Henry Hicks Academic Administration Building, which is located at the eastern end of University Avenue. Three faculty buildings contain the quad area, where we hope to hold the non-alcoholic event. We are expecting 1500-2000 students to attend the orientation concert. In consideration of the community members, an information program, which has been the practice for similar events, will occur.

If you have any questions or concerns, please do not hesitate to contact me at (902) 494-1282 or froshwk@dal.ca. Thank you for your time and consideration.

Sincerely yours,



Jordan Benson

Serving Students since 1868

APPENDIX B

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.

APPENDIX C

August 13, 2003

To Whom It May Concern:

Re: Dalhousie Student Union application for an exemption to By-Law N-200, Respecting Noise.

This letter is to advise that Halifax Regional Council intends to consider and, if deemed advisable, approve the following application:

Request by Dalhousie Student Union, to be exempted from By-Law N-200 on Wednesday, September 3, 2003, from 7:00 pm until 11:00 pm at which time an outdoor concert will be held in front of the Henry Hicks Academic Administration Building. The concert is part of the 2003 Frosh Week activities that will be taking place during the first week of September.

A hearing will be held on Tuesday, August 26, 2003, at 6:00 pm in the Council Chambers, 1841 Argyle Street, Halifax, for citizens residing near the concert location, who are opposed to the above application.

If you have any questions or concerns, please contact Craig Horton at (902) 490-4432 or hortoncr@region.halifax.ns.ca.