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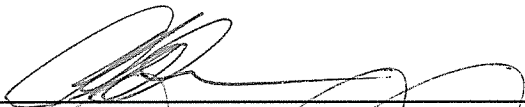


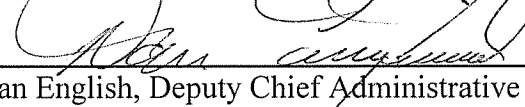
PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Halifax Regional Council**  
**December 2, 2003**

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

**SUBMITTED BY:**

  
George McLellan, Chief Administrative Officer

  
Dan English, Deputy Chief Administrative Officer

**DATE:** November 19, 2003

**SUBJECT:** **Noise By-Law Exemption Application - Maxim 2000 Inc.**  
**Re: 1233 LeMarchant Street**

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**ORIGIN**

November 10, 2003 application for an exemption from By-Law N-200, Respecting Noise, by Maximum 2000 Inc., outlined in Appendix A.

**RECOMMENDATION**

It is recommended that:

1. Regional Council approve Maxim 2000 Inc'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**

Maxim 2000 Inc. is constructing a multimillion dollar non combustible complex at 1233 LeMarchant Street, for Dalhousie University. Part of the process in constructing this building is the pouring, curing and finishing of concrete.

An application for an exemption from the Noise By-Law has been submitted by Mr. Allan Coe, Project Manager for Maxim 2000 Inc., to allow them to complete concrete finishing with gas powered trowels after 9:30 PM. The application was received on November 10, 2003 and was scheduled into the next available Public Hearing (December 2<sup>nd</sup>). The application details that:

- It is anticipated that concrete finishing will take place after 9:30 PM from December 3, 2003 to January 15, 2004 at 1233 LeMarchant Street.
- There is a period of time that elapses while the concrete sets before the finishing process can be completed. The concrete set time varies and is directly related to the weather conditions of the day. The colder the temperature, the slower the set time, which results in the finishing being completed later in the day.

- 60% of the concrete pouring and finishing aspect of the complex has been completed.
- Accelerators can be added to the concrete mix, subject to the approval of structural consultants; to speed up the set time of the concrete. To date, Maxim 2000 Inc. has added the maximum allowable concrete accelerators and altered the concrete mix design as much as their structural consultants have advised.

The applicant is requesting an exemption to the by-law as the concrete finishing 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 tranquillity of a neighbourhood”

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 1233 LeMarchant Street. A copy of the notice is included as Appendix C.

Wesley Campbell of Campbell Commeau Engineering Limited, who is the engineering consultant for the 1233 LeMarchant St. project; has submitted documentation (attached as appendix D) in support of Maxim 2000 Inc.’s application. Mr. Campbell confirms that comments made in the application for the exemption (attached as appendix A) are accurate.

HRM Building Inspector Gerard Donahoe has indicated that he also agrees with the methodology of both the engineering consultant and developers when considering the need to permit extended hours when placing concrete floor slabs. Mr. Donahoe advises that it is reasonable to expect given the technical limitations of concrete, that additional time is required, especially with colder temperatures to complete the finishing process.

Halifax Regional Police has responded to complaints of noise emitting from 1233 LeMarchant St., over the past couple of weeks as a result of concrete finishing taking place. On 2 separate occasions summary offence tickets were issued. The file numbers for these incidents are 03-47801 and 03-48388.

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.

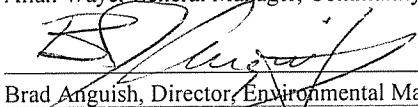
**ALTERNATIVES**

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 its entirety.

**ATTACHMENTS**

- Appendix A: November 10, 2003 application for Exemption from By-Law N-200, Respecting Noise; issued by Maxim 2000 Inc.
- Appendix B: Excerpt from By-Law N-200 Respecting Noise re: Granting Exemptions by Council.
- Appendix C: Copy of the notice sent to the neighbouring citizens, advising them of the hearing scheduled for the December 2nd, Regional Council Session.
- Appendix D: Copy of a letter from Campbell Engineering in support of Maxim 2000 Inc.'s Application for an exemption to By-Law N-200, Respecting Noise.

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, Community Projects, EMS	490-6484
	 Brad Anguish, Director, Environmental Management Services	490-4825

Noise By-Law Exemption Application - Maxim 2000 Inc.

Re: 1233 LeMarchant Street

Council Report

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December 2, 2003

APPENDIX A

NOV 12 2003 11:15 PM 024251348

MAXIM2224

NO. 964 P. 223 a1



11 Morris Drive  
Suite 212  
Dartmouth, N.S.  
B3B 1M2  
Tel. (902) 488-7471  
Fax (902) 488-7715

File 02224-SM134  
November 10, 2003

Halifax Regional Municipality  
Fax Number: 490-4208

Re: Noise By-Law N-200

To whom it may concern:

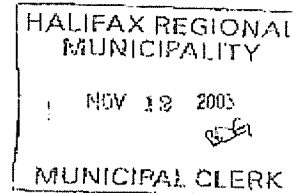
This is to confirm that Maxim 2000 Inc. wishes to apply for a variance from the By-Law N -200, otherwise known as the "Noise By-Law".

Maxim is presently constructing a multimillion dollar non combustible complex at 1233 LeMarchant St. in Halifax. The construction of the concrete superstructure is broken up into smaller and more manageable sections. Each one of these sections involves the pouring and finishing of concrete floor slabs with gas powered trowels. In all cases the concrete floor slabs are scheduled for first thing in the morning after the 7:00 am requirement and continues until mid afternoon. There is a period of time that elapses while the concrete sets before the finishing process can be completed. The concrete set time varies and is directly related to the weather conditions of the day as well as the concrete mix design. Typically the colder it gets the slower the set time. To compensate for the different weather conditions the concrete mix design can be altered and additives can be introduced to speed up the set time, but in all cases the structural engineer must approve changes in this mix design.

To date, we have added the maximum allowable concrete accelerators and altered the concrete mix design as much as our structural consultants have advised.

We are of the opinion that there should be an amendment to the By-Law N 200 to allow concrete finishing with a power trowel to take place after 9:30 pm if the process is reviewed by a professional engineer in conjunction with the Building Inspector.

Maxim is in no way attempting to disturb or be disrespectful to the neighbors, but the majority of all new projects includes concrete floor slab finishing and is a crucial component to non combustible construction design.



cc: Christen MacDonald

Noise By-Law Exemption Application - Maxim 2000 Inc.

Re: 1233 LeMarchant Street

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December 2, 2003

NOV 12 2003 1:17PM 024251348

MAXIM02224

NO. 954 P. 8/9 112

This project is located in a U2 zoned area and is over 100' to the closest R 1 zoned property. Presently we are 60% complete on the construction of the superstructure and we anticipate 8 more nights over the next 60 days where we will have to finish concrete after 9:30 pm.

We will forward comments from our Structural Design Consultant for your review. Please review this request and advise at your earliest convenience.

Allen Coe

Project Manager  
Maxim 2000 Inc.

**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.

Noise By-Law Exemption Application - Maxim 2000 Inc.

Re: 1233 LeMarchant Street

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APPENDIX C

November 14, 2003

To Whom It May Concern:

**Re:** Maxim 2000 Inc.'s 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 Maxim 2000 Inc. to be exempted from By-Law N-200 to complete concrete finishing with a power trowel after 9:30 PM from December 3, 2003 to January 15, 2004 at 1233 LeMarchant Street. The concrete finishing is a critical section of the construction of a multimillion dollar non combustible complex at this location.**

A hearing will be held on Tuesday, December 2, 2003 at 6:00 pm in the Council Chambers, 1841 Argyle Street, Halifax for citizens residing near 1233 LeMarchant Street, 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](mailto:hortoncr@region.halifax.ns.ca).



Noise By-Law Exemption Application - Maxim 2000 Inc.

Re: 1233 LeMarchant Street

Council Report

December 2, 2003

APPENDIX D

*C. Comeau* *W*



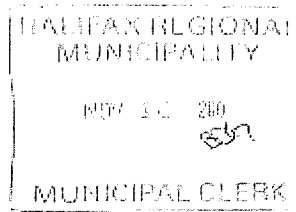
CAMPBELL COMEAU  
ENGINEERING LIMITED

CONSULTING ENGINEERS

1057 BEDFORD ROW, P.O. BOX 1328, HALIFAX, NOVA SCOTIA, B3J 3P1

TEL: (902) 428-5454  
FAX: (902) 428-5457

November 14, 2003



Halifax Regional Municipality  
City Clerk

Fax: 490-4208

Dear Sir / Madam:

Re: *Noise By-Law N-200*

Campbell Comeau Engineering Limited wishes to lend and add support to the request made by Maxim 2000 Inc. to amend By-Law N-200.

Comments presented in the Maxim 2000 Inc. letter are correct and should be addressed.

The use of reinforced concrete construction for building frames in HRM should be encouraged for several reasons, one of which is its inherent non-combustible properties.

Wintertime reinforced concrete construction presents its own challenges for a contractor. One of these challenges is the potential delay in concrete set time due to cold weather conditions.

As a structural building designer we are able to accelerate the set time with concrete additives, however, this has its limits. Presently the construction program at Dalhousie University is using the industry recommended concrete accelerators. If the weather drops unexpectedly, the concrete will not achieve its set until after daylight. Simply stated the contractor in the colder periods of the year is simply at the mercy of the weather. Concrete will not set (firm to the point where the surface will support the weight of the finisher) without sufficient heat.

The noise generated from the operation of a power trowel used in finishing concrete is minimal and intermittent. I support this request and consider it to be reasonable considering the noise emanating from such activities as street cleaning, garbage removal, snow clearing, emergency vehicles and medical helicopters and not to mention roof top mounted air conditioning equipment far outweigh the noise of a man operating a power trowel on an intermittent schedule.

W.C. CAMPBELL, City Clerk (sp)

W.G. CAMPBELL, B.Sc., H.B., P.ENG., F.F.I.C.

M.P. COMEAU, M.Sc. (ENG.), P.ENG., M.C.S.C.E.

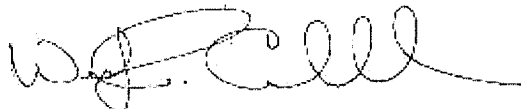


HRM - City Clerk  
November 14, 2003  
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If you require any further information or further details please do not hesitate to contact the undersigned at your earliest convenience.

Yours very truly,

**CAMPBELL COMEAU ENGINEERING LIMITED**



Wesley G. Campbell, P.Eng.  
President

WGC/emc

