

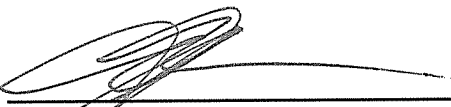
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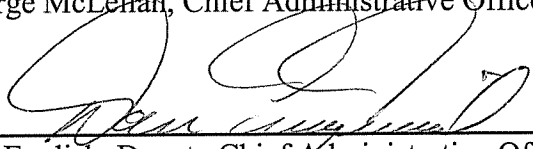
PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Halifax Regional Council
December 16, 2003

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: 

George McLellan, Chief Administrative Officer



Dan English, Deputy Chief Administrative Officer

DATE: December 9, 2003

SUBJECT: **Noise By-Law Exemption Application - Armour Group Limited**
Re: Historic Properties Privateers Wharf

ORIGIN

December 1, 2003 application for an exemption from By-Law N-200, Respecting Noise by Armour Group Ltd., attached as Appendix A.

RECOMMENDATION

It is recommended that:

Regional Council approve Armour Group Limited's application for exemption from the provisions of the noise by-law pursuant to the contents of this report as detailed in Appendix D.

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.

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. (see Appendix C)

The applicant is requesting an exemption as the concrete repair operation may be in violation of the following provision of the bylaw:

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”

As prescribed in the bylaw, 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

Armour Group Ltd. will be repairing the wharf at Historic Properties which was damaged as a result of hurricane Juan. The wharf in it's current state is structurally unsafe. Part of the process in repairing the wharf includes concrete repair from the underside of the deck located directly under Salty's Restaurant.

Tidal action and the restricted space only permits the work to be carried out in two four hour periods every day, coincidental with low tide. Given the restrictions of the tidal schedules, to complete the restoration process under these circumstances and in a timely manner, some work must be completed between 9:30 PM and 7:00 AM.

The application dated December 1, 2003 details the following:

- The concrete repair operation will be carried out from a working platform, suspended under the deck and enclosed with insulation and tarpaulins to maintain a minimum 50 degrees temperature to assist in the concrete curing process. The enclosure will also assist in reducing noise levels.
- The concrete repair includes chipping, sandblasting and spraying of high strength concrete.
- Pumps and compressors used to complete the work will be located in areas that will minimize the noise levels.
- Work is scheduled to start in early January 2004. The work is estimated to take 3 weeks of working time to complete, however due to the inevitable weather delays (extreme cold, rain, snow) and storm surges, it is anticipated to continue intermittently for a six week period.
- The concrete repair operation will be completed by Atlantic underground Services Ltd., an expert concrete restoration company, based out of Moncton, New Brunswick.

One of the main concerns of the Armour Group is not to disturb the peace and tranquillity of the neighbouring Sheraton Hotel. The Armour Group has consulted the management of the Sheraton Hotel to advise them of the work that will be completed, and the processes that will be taken to keep the level of noise to a minimum.

The bylaw allows Council to consider any matters it deems appropriate at the hearing and either reject an application or approve it with or without conditions.

This is not a request for a “blanket” exemption. It is for very a very specific activity and under the following specific conditions:

- It applies only to the work restricted by the tidal schedule, including set-up and break down.
- It is for a 6 hour period coincidental with each low tide (3hrs before and 3 hrs after)
- Hoarding will be maintained which will reduce sound transmission.
- Equipment will be located so as to reduce sound transmission.
- Site signage will be maintained to inform the public of the conditions of the exemption.

The Halifax Regional Police, who administer the Noise bylaw after hours, have been notified of this application. Should Council approve the exemption, HRP are prepared to administer the bylaw under the conditions outlined in 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, 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 exemption as per Appendix D.
2. Approve the exemption as per Appendix D with amendments.
3. Reject the application in its entirety.

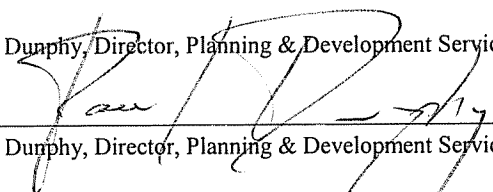
ATTACHMENTS

Appendix A: December 1, 2003 application for Exemption from By-Law N-200, Respecting Noise; submitted by the Armour Group Ltd.

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 owners, advising them of the hearing scheduled for the December 16, 2003 Regional Council Session.

Appendix D: Conditions of Noise bylaw Exemption

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:	Ed Thornhill, Manager - Permits & Inspections	490-4480
Report Approved by:	Paul Dunphy, Director, Planning & Development Services	490-4933
		
	Paul Dunphy, Director, Planning & Development Services	490-4933

APPENDIX A

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ARMOUR GROUP LTD ->> STOREFRONT SCOTT

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Direct: 474-3000

December 1, 2003

Halifax Regional Municipality
Real Property Services
PO Box 1749
Halifax, Nova Scotia B3J 3A5

Attention: Mr. George McLellan
Chief Administrative Officer

Dear George:

Re: Historic Properties Privateers Wharf

The recent hurricane caused considerable damage to much of the wharfage at Historic Properties. While repair and replacement is under way, it will take several months to completely restore. However, I am confident that by the spring of 2004 our waterfront will again be fully accessible to Halifaxians and our visitors.

One piece of the wharf that has been damaged involves the original concrete wharfage and in particular that portion which is directly in front of and under the single storey portion of the Salty's Restaurant. The repair and restoration of this portion of the wharfage will require a concrete repair operation from the underside of the deck. Chipping, sandblasting and shotcreting will be required. (Shotcreting involves a spray application of high strength concrete.)

The work must be carried out from a working platform suspended under the deck and enclosed with insulation tarpaulins to maintain a minimum 50° temperature. Due to tidal action and the restricted working space the work can only be carried out in approximate four hour periods, twice a day coincident with low tide. The tides change approximately one hour a day and it is clear that in order to be able to undertake this restoration under these circumstances, work must be performed in the periods between 9:30 p.m. and 7:00 a.m.

While unquestionably there will be some noise locally from this operation, the fact that it is on the harbourfront under the concrete wharfage and totally enclosed will effectively mitigate. The operation of pumps and compressors is necessary and this equipment will be located so as to minimize the impact.

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S. McLellan
December 1, 2003
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It is our wish to commence the work very early in January, 2004 and it is anticipated that the work will take approximately three weeks to complete. This work will be undertaken by Atlantic Underground Services Limited, an expert concrete restoration company with headquarters in Moncton, New Brunswick.

We would respectfully request Halifax Regional Municipality exempt this work from By-law N200.

Yours very truly,
THE ARMOUR GROUP LIMITED

DRAFT

A. M. McCrea
Chairman

cc. Craig Horton, HRM

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

December 2, 2003

To Whom It May Concern:

Re: Armour Group Ltd. 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 Armour Group Ltd., to be exempted from By-Law N-200 to complete a concrete repair operation to the wharfage directly in front of and under the single storey portion of the Salty's Restaurant located in the Historic Properties area of the Halifax waterfront. The concrete repair operation includes chipping, sandblasting, and the spraying of a high strength concrete. It is anticipated that the work will start in early January 2004, and be completed in a 3 week duration.

A hearing will be held on Tuesday, December 16, 2003 at 6:00 pm in the Council Chambers, 1841 Argyle Street, Halifax for citizens residing near the Salty's Restaurant location of Historic Properties, 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.

APPENDIX D

Conditions of Noise bylaw Exemption for Armour Group Ltd. @ Historic Properties Privateers Wharf

GENERAL PROVISION

- 1- This exemption applies only to those activities necessary to carry out the remedial work to the wharf which are restricted by tidal action, including set-up and breakdown of equipment.
- 2- Unless otherwise specified in this exemption, all provisions of the Noise bylaw remain in affect.

METHODOLOGY and PROJECT MANAGEMENT

- 3- No construction related noise is permitted outside of the 6 hour exemption “window” described in Sentence 8.
- 4- The area will be hoarded with tarpaulins during the exemption “window”.
- 5- All equipment will be located so as to minimize the impact of noise to the surrounding area.

PUBLIC NOTIFICATION

- 6- Site signage shall be provided by the applicant, notifying the public of the conditions of this exemption.

EXEMPTIONS

- 7- Notwithstanding sentence 3, the exemption period is in affect from January 2nd to February 13th inclusive;
- 8- This exemption from the noise bylaw allows construction related noise to occur during the 6 hour period commencing no sooner than 3 hours before low tide and ending no later than 3 hours after that tide.
- 9- For the purposes of this exemption, the times of high tide shall be those published daily in the Chronicle Herald.