

LAW AMENDMENTS – BILL 225

DATE: October 31, 2022

SPEAKER: Pam Lovelace, Deputy Mayor, Councillor District 13 Halifax Regional Municipality

Kwe, Hello, Bonjour, my name is Pam Lovelace, Councillor and Deputy Mayor, Halifax. You can call me Pam.

The Halifax Regional Municipality is located in Mi'kma'ki, the ancestral and traditional lands of the Mi'kmaq. The municipality acknowledges the Peace & Friendship Treaties signed in this Territory and recognizes that we are all Treaty People.

In the midst of a global pandemic, on October 17, 2020, I was duly elected by voters residing in District 13, Hammonds Plains – St. Margarets, to be their Councilor in Halifax Regional Municipality. The following year, on November 23, 2021, I was selected by my peers on Halifax Council to be the 4th female Deputy Mayor in Halifax. I acknowledge that I am privileged to be here speaking before Law Amendments in the Nova Scotia Legislature. I am grateful to the women 100 years ago who fought hard, and some who gave their lives, to permit me, a first-generation woman with German and Canadian citizenship, the opportunity to participate in politics and present today in the People's House. I acknowledge October 18th as Person's Day in Canada, when Canada's highest court of appeal

made the historic decision in 1929 to include women in the legal definition of “persons” paving the way for women to participate in politics.

Over the course of my presentation, I will offer you insight into how local government in Nova Scotia’s Capital Region has progressed over the past 273 years, and why provincial representatives must honour **Section 382 of the Halifax Charter**: “Requirement to consult with Municipality”. In case you are unaware of this provincial legislation, the Halifax Charter, I will remind you that Section 382 reads:

“ 382 (1) The Minister shall consult with the Municipality respecting any proposed amendment to this Act. “

In addition to **Section 382 of the Halifax Charter**, I will also touch on Section 91 and Section 92, Part 8, of the Canadian Constitution.

Section 91 of the Constitution states: “It shall be lawful for the Queen, by and with the Advice and Consent of the Senate and House of Commons, to make Laws for the **Peace, Order, and good Government of Canada**, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces”

Section 92 of the Canadian Constitution reads:

“ 92 In each Province the Legislature may exclusively make Laws in relation to Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,

8. Municipal Institutions in the Province. ”

As some of you may now know, municipal governments are creatures of the Provincial Legislature, and I, respectfully acknowledge as a Councilor that I have sworn an Oath to the Monarch of Canada to **“truly, faithfully, and impartially execute the duties of the office** to which I have been elected to the best of my knowledge and ability.” I do not hold bias and will provide provincial legislators with the facts and knowledge that I hold surrounding the Halifax Charter and Canadian Constitution and the intent of those two pieces of legislation remain: **Peace, Order, and Good Government.**

As a public servant, I am here to deliver sector knowledge and advice to provincial legislators on why Bill 225 must be halted immediately to provide the Province of Nova Scotia time to properly and respectfully consult with Halifax Regional Municipality in accordance with the Halifax Charter Section 382. I will remind you that Bill 225 was not recommended by the Joint Housing Panel, which in good faith, Halifax participated in, nor was Bill 225 contemplated or suggested by the Deloitte Housing Development Barrier Review Report.

In fact, we do not know the origins of Bill 225, do we?

As some of you know, Halifax, also known as Kjiptuk in Mi'kmaq, was established in 1749 by a single Governor, as a fortified town for the British and means to counter the French military presence in Acadie and Louisbourg. While

much time has passed from those days of autocratic rule and absolute power, unfortunately, Nova Scotia continues to stumble backwards to an authoritarian governance model in search of absolute power.

Bill 225 is an example of that provincial, harsh and punitive approach to governing despite the implied democratic intent of the Section 382 of the Halifax Charter. Haligonians witnessed similar hostile governance in 1994 through forced amalgamation of the City of Halifax, City of Dartmouth, Town of Bedford, and County of Halifax. Duly elected municipal leaders were removed from office and a single City Manager was hired by the Province to oversee local government until the first municipal council was elected in December of 1995 to represent the newly formed Capital Region, Halifax Regional Municipality.

By provincial design, this municipality has the land mass of Prince Edward Island, includes half the population of the Province of Nova Scotia, and is the economic engine of the Maritime Provinces. Should I expect mockery from Legislators in this moment as was witnessed in the House on October 25th as I espouse the greatness of our Capital Region? I suspect the origins of mockery from MLAs was in part due to provincial Legislators having little knowledge as to the extent that the provincial government models and implements the work of Halifax Council from pedestrian safety to active transportation, to housing homeless, mitigating climate change, and the separation of lobbyist interests from decision making.

In 2018, Halifax Council skirted the Province's Municipal Election Act and enacted By-law C-1100, the Campaign Financing By-law removing developers, unions and wealthy interference in municipal campaign financing. The result of those Bylaw changes – **gender parity on Council in 2020**. Am I to understand that this Progressive Conservative government wants the power to nullify these types of Bylaw changes that remove powerful interests, decreases transparency, accountability, and democracy?

As municipal institutions in Nova Scotia move towards the negotiation of the Provincial Municipal Service Exchange Agreement, initially developed in 1994 prior to the establishment of Halifax Regional Municipality, I am increasingly concerned about this provincial government negotiating in a collaborative manner and in good faith.

I will remind you again, that the intent of Section 91 and 92 of the Canadian Constitution Act remains: **Peace, Order, and Good Government**. Stepping on a Municipal Institution is not how you keep peace, order, or provide citizens with good government. Indeed, the intended consequences of these reckless actions in Bill 225 will by their inherent nature cause disorder, disruption, distrust and dissent.

Nova Scotia's political legacy in building Canada continues to be Joseph Howe's fight for responsible government. Canada's first elective assembly was

right here in Halifax in 1758. As Joe Howe laboured to remove personal gain and interests from political decision making and ensure Halifax was represented in a fair and honourable manner, his achievements must not be forgotten.

Joseph Howe stated: “My public life is before you; and I know you will believe me when I say, that when I sit down in solitude to the labours of my profession, the only questions I ask myself are, What is right? What is just? What is for the public good?”

Peace, Order, and Good Government. That must be our collective pursuit as elected representatives in Nova Scotia.

Honourable members of the Nova Scotia Legislature, as your municipal representative in Halifax Regional Municipality, I am advising you to honour Section 382 of the Halifax Charter Act and Consult with the municipality on any changes to this legislation. Please defer Bill 225 and engage in meaningful consultation.

Thank you, Merci, Wela’liq.

Peter Polley
Polycorp Properties Inc.

Law Amendments Committee
Nova Scotia Legislature
October 31, 2022
Bill 225 – Halifax Regional Municipality Charter

As I noted in another submission to Law Amendments Committee, I am a Nova Scotia resident, taxpayer, builder and provider of quality, reasonably priced rental housing.

I applaud the Minister of Municipal Affairs and Housing for Bill 225.

Why?

Because we are in a housing crisis and a climate crisis...

And it is my experience that the Halifax Regional Municipality has proven wholly unable to act like we are in a housing crisis and a climate crisis.

Words are not enough.

It's time for action.

Our company - Polycorp - has been one of the more active developers of housing units in the province over the past 20 years.

We do not produce a large volume every year, but we are at it, steady, year-after-year.

We have been involved in approximately 1000 units in the last 15 to 20 years, which would probably put us in the top 20 builders of new housing in Nova Scotia.

We have land inventory for another 2000-plus units, so we are very concerned about the current situation.

Mind you, we were also very concerned about the situation 10 years ago. And when we voiced our concerns 10 years ago, nobody listened.

We can no longer afford to wait for HRM to get their act together.

Waiting in a crisis is not an option.

Here are some examples of how broken HRM's approach to housing is.

In one case, our company was refused a development permit because someone – an HRM staff person - actually fabricated an incredibly detailed story about how the land we owned was supposed to be a playground.

There was no documentation to support this wild idea. It was just made up.

In that same case, the then Director of Planning for HRM said – under oath in court, quote: “a zoning confirmation letter can be indicative, and may not be definitive”.

Imagine using a government document like that to rely on when making multi-million dollar business decisions.

It took two and a half years and a Supreme Court hearing to get a court order to HRM to issue the permit.

HRM Legal Services deliberately tried to warp, twist and distort the facts as much as they could. They made what should have been a simple hearing into a circus to try to prevent the matter from being heard, and to force a full trial to delay things further.

Court day saw 15 lawyers in the court room. I counted them. 15.

And then, when we did get the court order, HRM started the permit review from scratch instead of re-starting the previous processing. It took months more before HRM finally issued the permit.

That took about 100 units out of the inventory of housing stock in this Province that have never been replaced to date.

It cost HRM probably half a million dollars in legal fees. They had to reimburse us over \$100,000 in legal fees, plus all of the other six other parties involved. HRM lost, by my estimate, over three million dollars in property taxes in the last ten years for that project never having been built, and it cost the Province \$3M in sales tax revenue that they did not get because the project was never built.

The full details of that case never really came out, but they would be very interesting reading for anybody that was interested. It's all available online, or ask me for a copy of the court decision.

I can tell you about applying for what should have been a simple amendment to a development agreement that should have taken, in normal circumstances, and reasonable processing times, three months.

It took almost three years.

I can tell you about applying for a building permit and after 16 weeks, the permit not having been looked at by some departments. This was BEFORE they could blame it on the new online computer system.

I can tell you about questioning the value that HRM came up with for a building permit and my being told "if you don't like it, you can sue us."

I can tell you about wanting to make an application to change the zoning on a piece of property and a more senior HRM staff person saying, "we just changed that zone 20 years ago -what has changed since then?".

My response – "Are you for real – have you heard about the little thing called global warming and the fact that population and real estate values are off the charts?"

I could tell you about a current project that we own and want to develop – very similar to the previous example.

One of the largest parcels of land inside the entire HRM serviceable boundary – in other words, it is already inside the sewer and water boundary and has plentiful sewer and water available.

This property had its zoning "modernized" in 2000. That was 22 years ago now.

Modernization in the year 2000 envisioned nice, large 10,000 sq ft lots with single family homes with lots of street frontage.

The sort of houses that would sell today for \$800,000+. Not exactly affordable.

Just to give you an idea of what is actually causing the housing crisis...

Over the past 18 months, we have had several meetings with HRM staff on that project.

We want to build a large scale, medium density Net Zero community with housing at an affordable or attainable price point. The sort of a community that people write about. Walkable, lots of green space, respect for the natural environment...planning utopia.

Now back to the real world.

Typically, it takes 2 months to get a meeting, after sending 10 to 20 emails and/or phone calls. At times in the process, one may become concerned that the other party has died, retired or changed jobs due to the lack of response.

After a typical meeting, it typically takes several more requests for an update, which comes out in another month or so. Typically, the response is unfavourable.

So, the process starts again to organize another meeting, most likely with another group of equally indifferent staff.

Nobody has ever said "Wow, this is great. Let's work together to make this happen".

Instead, HRM staff effectively try to pound the lifeblood and enthusiasm out of me and make so many vague references to future dates, obstacles and hurdles that it is actually amazing that as much gets done as we see happening.

It is clear that there is a housing shortage. Yet some organizations involved in the situation do not seem to realize it.

Or if they do, they simply don't act like they know, and most definitely do not act like there is any urgency to get more housing stock built ASAP.

Our project is "only" 1000 to 1500 units. This decade, next decade, the decade after – What's the hurry???

I'm left feeling like I'm the only one in these meetings that cares about building more housing that people can afford.

That's why Bill 225 is so important.

Anything that the Province can do to cut through the red tape and delays from HRM Planning or the entirety of HRM's operation is desperately needed.

This was probably needed 10 years ago.

If anything, Bill 225 doesn't go far enough.

Bill 225 should apply to existing Bylaws that affect the current housing stock as well. It should be expanded to target Bylaws that arbitrarily and artificially increase the operating costs for our rental housing operation that TRY to provide affordable housing to residents.

These HRM Bylaws have been on the books for years and need to be struck down. An alarm bylaw that gives the same one free ticket per year for a false alarm to a single family home as for a 200 unit building.

Obviously if one free false alarm is reasonable for a house, some latitude should be given for a 200 unit building with 400 people living in it. But there isn't. Even when one takes the time to point out the flaw when the Bylaw is created, it is summarily dismissed by HRM staff.

A Bylaw that openly discriminates against the rental housing industry by denying solid waste services to apartment buildings of over six units, forcing rental housing providers to subsidize single family homes regarding solid waste management.

A Construction & Demolition Debris Bylaw that forces us to take construction debris and materials to the one approved site in the entire city, instead of letting the material get hauled to Nova Scotia Department of Environment approved facilities outside of HRM.

HRM has created and is supporting an unregulated monopoly on this one regarding C&D materials.

I can find lots of other highly problematic HRM Bylaws that are part of the death-by-1000-cuts that has created the current housing crisis.

So, please keep the pressure on HRM to try to make a difference to make things just a little bit better in this housing crisis.

Pass Bill 225. Our housing crisis needs fast action. HRM can't deliver. It's long since time for the Province to help.

Law Amendments

Bill 225 HRM Charter Amendments – Authority to Nullify HRM By-Laws

Mayor Mike Savage speaking notes

Oct. 31, 2022

In 2008 the Progressive Conservative government brought in the Halifax Charter, in recognition of the important role and unique nature of this province's capital city

Today Halifax is one of the fastest growing and most successful cities in Canada with record population growth, propelling NS to over one million people.

We have unprecedented development across the municipality; we have become an innovation and tech hub; and are attracting people and companies from across the country and around the world.

We have responsibly managed our finances, kept tax rates well below other cities, and invested in key infrastructure needed to support growth.

While the Charter is imperfect, it validates the growing role of Halifax in leading the provincial economy, and adjustments have been made by various governments to make it more effective.

Bill 225 is a direct intrusion into municipal affairs, and it happened without any consultation with us.

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Indeed, this bill was introduced without notice in direct contravention of the provisions in the Charter that requires notice.

To call it concerning would be an understatement.

We all agree that housing is needed, all forms of housing, but most importantly affordable housing, if we are to remain a livable, desirable city for people across the socio-economic spectrum.

This city's remarkable growth has turned around the meaning of "going down the road". Instead of people leaving here to go to Toronto and points west, people are coming here. HRM planned for this growth, it was no accident.

In anticipation of population increases, HRM introduced its Regional Plan to accommodate growth, setting responsible targets for urban, suburban and rural development.

The downtown plan known as **HRMByDesign** has helped density the core of the city by allowing as-of-right development.

We followed this with the **Centre Plan** for urban and near-urban neighbourhoods. This plan enables 37,000 units, as of

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right, and another 22,000 in designated growth nodes while incentivizing much needed affordable housing.

It passed Council a year ago and was adopted into planning law by the Province. The Regional Plan review now underway could add another 25,000 units to the mix throughout HRM.

We are doing the hard work of preparing for population growth, that aligns with our **People, Planet, Prosperity Economic Strategy**, our **HalifACT** climate action plan, and our **Halifax Transit** plan. This means greater density where it can best be accommodated – in sustainable, connected, communities that we can service with transit, recreation centres, libraries, parks and playgrounds.

But, here's the thing: development is not as simple as permissive planning and longer construction hours.

Today we have projects totalling 10,000 housing units with building permits in hand, which is evident from the three dozen cranes dotting the horizon. But we also have 3,000 units under permit that have not broken ground.

Developers and builders are struggling to find trades and unskilled labour; they are faced with increased interest rates, and have encountered costly supply chain disruptions. In short, the fundamentals have changed.

Last year the government introduced ***Executive Panel on Housing in the Halifax Regional Municipality***. We did not, and do not, feel it was necessary.

But we cooperated, with our most senior city planners working alongside provincial staff in every way possible to ensure ministerial approvals recognize sustainable growth areas.

Minister Lohr and I communicate regularly, and I have appreciated the relationship. This is why it was so disappointing that Bill 225 came with no notice, and no respect for municipal authority.

The recent **Deloitte report** commissioned by the Housing Panel identified a number of measures to spur housing, most of which are well underway. The report spoke to our orders of government working together and implementing solutions. Bill 225 is not “working together” and the measures it proposes are nowhere to be found in the report.

Minister Lohr has indicated that this bill is largely targeted at a new bylaw passed last summer by HRM that moves construction hours from 9:30 pm to 8 pm. The move by the city came about after many complaints from families and others, a staff report, consultation, and a vigorous Council debate.

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I did not vote for the changes, but I also recognize that we have to live together in this community, even (perhaps especially) as we are building it. I respect the decision of the Council I chair.

Council's decision was not out of line with other growing cities. Toronto for example stops construction at 7 pm. And our by-law allows for exemptions and weekend construction (not allowed in many jurisdictions).

To be overruled without public consultation is distasteful in a democracy. It leads to the question: Which bylaws will be nullified next?

Bill 225 is not about construction and blasting hours; it is about seizing new ministerial powers, while striking a political pen through the Charter's duty to consult the municipality it was designed to govern.

In its potential to put a provincial government in charge of a city that is home to nearly half of the province's population, this bill is out of step with modern democratic principles.

Municipalities are not the gatekeepers; they are places full of people passionate about building livable communities. Like so many cities across this country, we need the help of our

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provincial government to unlock labour, decrease costs, and help us move more housing projects from permit to construction.

We need sustained investments in affordable housing, in public housing and in the most rudimentary of temporary housing with the wraparound supports that help people get back on their feet.

Respect and collaboration are fundamental to any lasting relationship. You have a willing and capable partner in us, and I urge you to work with us to build a great city for all.

Thank you for this opportunity.

From: Theresa Scratch [REDACTED]
Sent: October 30, 2022 7:16 PM
To: Office of the Legislative Counsel
Cc: Theresa Scratch; Craig, Minister Steve; Mayor Mike Savage; Councillor Paul Russell
Subject: Law Amendments October 31 2022 - Bill 225 Submission

**** EXTERNAL EMAIL / COURRIEL EXTERNE ****

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Good day

I am submitting the comments below to Law Amendments (October 31, 2022) regarding Bill 225, an Act to amend the HRM Charter.

Bill 225 effectively removes the Municipality as the primary authority for planning and denies the public right to participate as provided in legislation. The HRM Charter enables the Municipality to assume **primary authority for planning within its jurisdiction and establishes a consultative process to ensure the right of the public to have access to information and to participate in the formulation of planning strategies and bylaws.**

Bill 225 allows the Provincial Government to nullify, without consultation, **any** by-laws made by HRM Council. All HRM by-laws are approved in the best interests of the overall community. HRM Council decisions are not made solely on the input from the public but surely the decisions are reflective of Municipal services and financial capabilities. If Bill 225 effects the Municipal ability to provide services will the Province assume responsibility for those services?

Bill 225 has been drafted as a result of the "housing crisis" and an obvious need to increase housing stock. Although we all recognize population growth will expand the boundaries of development and increase the density of housing, I never expected an elected body to consider public input as an obstacle to be eliminated. I have voted for Councillors to represent my Municipal interests. I have served as a Municipal Councillor. I have volunteered for over 30 years in my community, including participating in Municipal Planning Strategy reviews and amendments, as well as serving on the planning advisory committee as a volunteer. I saw these as contributing to my community. I find Bill 225 and the Deloitte report are a slap in the face to elected Municipal representatives, all volunteers and the general public.

Bill 225 is more than an amendment to address a noise by-law, as suggested. If one reviews Regional Council's discussion and decision on the recent changes to the HRM Noise By-law, it is obvious that **all** input was considered and exemptions to the bylaw could be obtained through the development officer. I assumed from their discussion the source of noise complaints had mainly to do with rock crushing and associated activities. All other construction activities would remain the same or may receive an exemption. The Bill 225 amendment appears to be very heavy handed and far too broad to consider it an amendment to address a couple of hours of "rock crushing".

I find Bill 225 offensive and undemocratic and I hope it is defeated.

Regards
Theresa Scratch

[REDACTED]

DEFEATED

Bill # 225
Halifax Regional Municipality Charter (amended)

**CHANGES RECOMMENDED TO THE
LAW AMENDMENTS COMMITTEE**

PAGE 1, Clause 2, proposed subsection 204A(1) - delete “nullified” and substitute “suspended until reconsidered and confirmed by the Council”.

PAGE 1, Clause 2, proposed clause 204A(1)(b) - delete “nullify” and substitute “suspend”.

PAGE 1, Clause 2, proposed subsection 204A(2) -

- (a) delete “nullified” and substitute “suspended”;
- (b) delete “as of” and substitute “from”; and
- (c) add “until confirmed” immediately after “order”.

PAGE 1, Clause 2, proposed subsection 204A(6) - delete.
