

RECOMMENDATION

The question before the Appeals Standing Committee is whether to allow or deny the appeal before them. It is recommended that the Appeals Standing Committee **deny** the appeal, thereby upholding the decision of the License Administrator to refuse Westphal Court Ltd.'s application for an Operating License for "Springfield Estates Land-lease Community".

BACKGROUND

Springfield Estates is a land-lease community in Middle Sackville owned and operated by Westphal Court Ltd. with 169 homes. Since its construction in the 1970s, Springfield Estates has been serviced by a privately owned water system. The current water system draws water from Little Springfield Lake which passes through a private water treatment system before being distributed to homes in the community.

As land-lease communities in HRM are privately owned and operated, the provision and supply of potable water to residents is solely the responsibility of the property owner operating the land-lease community. Springfield Estates' water system is a Registered Public Drinking Water Supply under provincial legislation. This means they are required to follow certain testing, treatment, and monitoring requirements set out in the *Guidelines for Monitoring Public Drinking Water Supplies* (NS Environment and Climate Change) to ensure that water supplied to residents meets the *Guidelines for Canadian Drinking Water Quality* (Health Canada).

On December 6, 2021, Springfield Estates was placed on a boil water advisory by Nova Scotia Environment and Climate Change (NSECC), due to high turbidity in the water and equipment malfunctions. Turbidity refers to the cloudiness or degree of clarity of the water, and may indicate the presence of bacteria, viruses, and parasites, which can have health effects.¹ The boil water advisory remains in place as of the writing of this report.

Prior to the adoption of By-law L-500, Springfield Estates was regulated by the Halifax County Mobile Home Park By-law (By-law 29) which required an annual "operating permit" for all mobile home parks. On October 14, 2022, the operating permit for Springfield Estates was revoked due to potable water not being supplied to residents. On May 26, 2023, Westphal Court Ltd. re-applied for an operating permit for Springfield Estates under By-law 29. This application was refused on June 23, 2023, due to potable water not being supplied to residents. Under By-law 29, there was no ability to appeal the decision to refuse or revoke an operating permit.

In 2023, Halifax Regional Municipality filed charges against Westphal Court Ltd. under the Halifax County Mobile Home Park By-law (By-law 29). These charges pertain to the failure to supply potable water to residents of the community. The property owner has plead not guilty, and the charges are pending trial in June, 2024. The prosecution is a separate matter which will be dealt with by the courts, and this appeal hearing only deals with the latest operating license refusal.

On September 2, 2023, the new By-law L-500 came into effect. On December 11, 2023, Westphal Court submitted an application for an Operating License under L-500, which was refused on December 28, 2023. The refusal of this operating license is the subject of this appeal hearing.

¹ "The Drop on Water", NS Environment and Climate Change

DISCUSSION

License Administrator’s Assessment of Operating License Application:

In hearing an appeal, the Committee may make any decision that the License Administrator could have made, meaning their decision is limited to the requirements of By-law L-500.

The following sections of By-law L-500 informed the License Administrator’s decision to refuse the operating license application:

PART II: Operating License

Requirement to comply with this By-law

12. *No operating license shall be issued by the License Administrator unless the land-lease community is in compliance with Part III of this By-law.*

PART III: Minimum Operating Standards

Requirement to provide potable water

- 17.** (1) *The community operator shall provide a continuous supply of potable water to all manufactured homes spaces within a land-lease community.*
- (2) *The community operator is deemed to not be providing potable water, regardless of the results of any water testing, where a “boil water” advisory, “do not consume” advisory, or “do not use” advisory issued by Nova Scotia Environment and Climate Change is in effect for a land-lease community.*

As Springfield Estates has been under a continuous boil water advisory issued by NSECC, which is still in effect as of the writing of this report, section 17(2) of By-law L-500 states that the community operator is deemed to not be providing potable water. Therefore, the community operator is in violation of section 17(1), which requires a continuous supply of potable water be provided to all manufactured home spaces within the community. Section 12 requires that an operating license application for a community which is not in compliance with the by-law be refused.

Appellant’s Submission:

While By-law A-100 limits the Committee to making a decision that the License Administrator could have made, the appellant has raised certain points in their letter of appeal (Attachment C) for the Committee’s consideration. Some of these key points are included below with staff’s comments on each point:

Appellant’s Appeal Comments	Staff Response
<p><i>The continued viability of Springfield Estates is in jeopardy due to the HRM’s refusal to issue the applied for operating license. Despite responding promptly to address NSECC’s concerns by engaging environmental specialists and implementing recommended measures, working closely with NSECC throughout and providing a stop-gap measure to supply potable water to residents, Springfield Estates may be forced to cease operation in the face of continued denial of its operating permit and related prosecution by HRM.</i></p>	<p>Should the property owner be found to have violated a municipal by-law by the courts, the penalty for such violation will be determined by the courts and is not a matter that can be determined by the License Administrator or this Committee.</p> <p>The role of the License Administrator and this Committee is to determine whether the application for an operating license meets the requirements of By-law L-500 and should be approved or refused.</p>

<p><i>Springfield Estates does not contest that it was subject to a boil water advisory at the time of the Application. However, Springfield Estates says that by denying the Application and initiating prosecution, the HRM has potentially devastated a key affordable housing option in the HRM. This despite Springfield Estates exercise of reasonably due diligence at every stage in its attempts to resolve the issue at hand.</i></p>	<p>The decision to refuse the operating license was based only on the failure to provide potable water to residents. Should the property owner rectify this issue, HRM will work quickly to ensure the community operator is in compliance with By-law L-500 and issue an Operating License at that time.</p>
<p><i>On the basis of these submissions, Springfield Estates requests that this Committee consistent with the "Order of Proceedings" grant the appeal to approve Springfield Estates' Application for an operating license and amend that license with conditions consistent with the powers granted to License Administrators under section 5(2)(b) of By-Law L-500 Respecting the Construction and Operation of Land-Lease Communities. More specifically, Springfield Estates requests the Application be granted by this committee with the condition that they provide regular updates to HRM Planning and Development regarding efforts to provide a continuous supply of potable water to residents of this community and remove the subject Advisory.</i></p>	<p>The wording of sections 12 and 17 of By-law L-500 explicitly prohibit the License Administrator from issuing an operating license, conditional or otherwise, where potable water is not provided to all manufactured home spaces. Further, the License Administrator does not have the authority under By-law L-500 to grant a conditional license which does not comply with these sections, as proposed by the Appellant, and therefore the Committee also does not have that authority.</p>

Conclusion:

Staff have reviewed all the relevant information provided in the license application, and in the appeal submission. Based on a detailed assessment, staff have determined that Springfield Estates Land-lease Community continues to be in violation of By-law L-500, requiring that the Operating License for Springfield Estates Land-lease Community be refused. The matter is now before the Appeals Standing Committee to render a decision.

FINANCIAL IMPLICATIONS

There are no financial implications related to this appeal. The HRM cost associated with processing this application can be accommodated with the approved operating budget for Cost Centre S330, Licensing Standards.

RISK CONSIDERATION

There are no significant risks associated with the recommendation contained within this report.

ENVIRONMENTAL IMPLICATIONS

Denying the appeal and upholding the decision of the License Administrator to refuse the license allows HRM to continue to take action to enforce the by-law requirement that potable water be provided to residents of the land-lease community.

ALTERNATIVES

Based on the information provided by the applicant as of the writing of this report, granting an operating license, or granting an operating license with conditions, is not enabled by By-law L-500, and is therefore not a decision that the License Administrator, and by extension the Committee, could make.

ATTACHMENTS

Attachment A: Refusal letter from License Administrator
Attachment B: Notice of appeal with attachments
Attachment C: Notice of revised appeal hearing date

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Peter Nightingale, Manager License Standards, 902-719-9478

Attachment A: Refusal Letter from License Administrator

January 5, 2024

Westphal Court Limited
224 Milo Terrace
Beaver Bank, N.S. B4E 0K3

Dear Westphal Court:

RE: Land-lease Community Operating License for Springfield Estates Land Lease Community (Application # BA-2023-003972)

We are in receipt of the above noted application for an operating license for Springfield Estates Land Lease Community. Springfield Estates is regulated under the Land-lease Communities By-Law (By-Law L-500). The following sections of the By-law pertain to your application:

Requirement to comply with this By-law

12. No operating license shall be issued by the License Administrator unless the land-lease community is in compliance with Part III of this By-law.

Requirement to provide potable water

17. (1) The community operator shall provide a continuous supply of potable water to all manufactured homes spaces within a land-lease community.

(2) The community operator is deemed to not be providing potable water, regardless of the results of any water testing, where a “boil water” advisory, “do not consume” advisory, or “do not use” advisory issued by Nova Scotia Environment and Climate Change is in effect for a land-lease community.

Please be advised that as this community remains under a Boil Water Advisory issued by Nova Scotia Environment and Climate Change, you are in violation of the above noted sections of By-law L-500. **Your application for an Operating License for Springfield Estates Land Lease Community is denied.**

Until the required documentation has been submitted which demonstrates a continuous supply of potable water is being provided to all mobile homes in the mobile home park, you are operating in violation of the Land-lease Communities By-law. In accordance with section 9.2A of the Halifax County Mobile Home Park By-law (By-law 29), **no permits for new mobile home installations within Springfield Estates Land Lease Community will be issued.**

In accordance with section 16 of By-law L-500, the applicant may appeal the decision of the License Administrator to refuse to issue an operating license to the Appeals Committee within fourteen (14) business days of written notice of the License Administrator’s decision refusing to issue an operating license.

Additional information on the appeals process can be found online at <https://www.halifax.ca/city-hall/standing-committees/appeals-standing-committee>.

If you have any questions, or to submit the documentation required to obtain an operating license, please contact me.

Sincerely,



Tanya Snair
Regional Licensing Supervisor
Community Standards | Community Safety
902-490-2550
snairta@halifax.ca

Attachment B: Notice of Appeal with attachments



Queen's Marquee, 600-1741 Lower Water Street P.O. Box 997
Halifax NS B3J 2X2 Canada tel [REDACTED] fax [REDACTED] stewartmckelvey.com

File Reference: SM057441-2

Dylan A.F. MacDonald
Direct Dial: [REDACTED]

February 6, 2024

Via Electronic Mail (clerks@halifax.ca)

Office of the Municipal Clerk
Appeals Standing Committee
Halifax Regional Municipality

Dear Sir/Madame:

**Re: Appeal of Application for a Land-lease Community Operating License for
Springfield Estates Land Lease Community (application No. BA-2023-003972)**

Please find enclosed the following on behalf of the Appellant, Westphal Court Limited in relation to the above noted matter:

- Appeal Form;
- Schedule "A"; and
- Representative Authorization

We also advise that the subject supporting evidence, entitled as an "Appeal Book" and marked "Personal", will follow by way of secure link accessible using the password: [REDACTED]

Please do not hesitate to contact the undersigned if you encounter issues accessing the documents.

Respectfully yours,



Dylan A.F. MacDonald

DAFM/gs

Enclosures
c. Client

4138-1944-8142

HALIFAX

NOTICE OF APPEAL

***This form may be used for general appeals.** Appeal forms for Dangerous or Unsightly, Residential Occupancy Conditions (By-law M-200) or Regulations of Taxis and Licenses (By-law T-1000) can be found on the Standing Committee's homepage at <http://www.halifax.ca/city-hall/standing-committees/appeals-standing-committee>

I Westphal Court Limited C/O Dylan A. F. MacDonald wish to file this Written Notice of Appeal in relation to the following decision _____

Application for a Land-lease Community Operating License for its Springfield Estates land lease community (bearing application No. BA-2023-003972)

*If applicable provide the Case Number _____

The reason for appeal is:

See attached Schedule "A" and Appeal Book.

*Hearings of the Appeals Standing Committee are open to the public and any information, including personal information, which is provided or obtained in relation to your appeal, will be a matter of public record.

DATED at Halifax, Nova Scotia this 6th day of February, 2024.

Westphal Court Limited C/O Dylan A. F. MacDonald

Legal Name of Appellant (please print)

Westphal Court Limited

Preferred Name

SEND TO:

Office of the Municipal Clerk

P.O. Box 1749

Halifax, NS B3J 3A5

Fax: 902-490-4208

Email: clerks@halifax.ca

Deliver in person: City Hall, 1841 Argyle Street, Halifax (Mon-Fri, 8:30am-4:30pm)

[Redacted Signature]
DYLAN A.F. MacDONALD
A Barrister of the Supreme
Court of Nova Scotia

Signature of Appellant

1742 Lower Water Street, Unit 600

(Address)

(Apt)

Halifax

(City)

B3J 2X2

(Postal Code)

[Redacted Contact Info]
Contact Number or Email

PH: [Redacted]

Schedule “A”

Dear Members of the Appeals Standing Committee:

I write on behalf of the Appellant, Westphal Court Limited (“**Westphal Court**”), the operator of the Springfield Estates land lease community (“**Springfield Estates**”) and in response to a January 5, 2024 letter from Regional Licensing Supervisor, Tanya Snair of Community Standards, denying Westphal Court’s Application for a Land-lease Community Operating License for its Springfield Estates land lease community (bearing application No. BA-2023-003972, the “**Application**”).

The subject denial was delivered to Springfield Estates via email on January 17, 2024, hence this appeal being filed on February 6, 2024.¹

The subject denial of the Application is the subject of this appeal to this Committee, filed pursuant to section 16(1) of By-Law L-500 Respecting the Construction and Operation of Land-Lease Communities.

Background

The Community of Springfield Estates has a history dating back to 1972 and presently contains 169 housing units housing more than 250 residents in the Middle Sackville region of the Halifax Regional Municipality (“**HRM**”). Most, if not all of these housing units, would be considered affordable housing, charging average rent of \$347.00/ monthly. As a result of nearby development and environmental changes in the area of Springfield Estates’ water supply, an unprotected surface level water source known as Little Springfield Lake, it has struggled to remove a boil water advisory put in place by Nova Scotia Environment and Climate Change (“**NSECC**”) following voluntary reporting.

The continued viability of Springfield Estates is in jeopardy due to the HRM’s refusal to issue the applied for operating license. Despite responding promptly to address NSECC’s concerns by engaging environmental specialists and implementing recommended measures, working closely with NSECC throughout and providing a stop-gap measure to supply potable water to residents, Springfield Estates may be forced to cease operation in the face of continued denial of its operating permit and related prosecution by HRM.

Within the subject denial letter, Community Standards advised that because “[Springfield Estates] *remains under a Boil Water Advisory issued by Nova Scotia Environment and Climate Change, [Springfield Estates is] in violation of the above noted sections of By-law L-500*”. On this basis, Springfield Estates’ Application was denied.²

Springfield Estates does not contest that it was subject to a boil water advisory at the time of the Application. However, Springfield Estates says that by denying the Application and initiating prosecution, the HRM has potentially devastated a key affordable housing option in the HRM. This despite Springfield Estates exercise of reasonably due diligence at every stage in its attempts to resolve the issue at hand.

Springfield Estates makes these submissions to convey its efforts to this Committee and Council more generally and remains committed to providing a continuous supply of potable water to its

¹Appeal Book Tabs 12 and 17

² Appeal Book Tab 17

residents. By identifying and implementing an alternative water source, Springfield Estates expects to be in a position to do so in the coming months.

On the basis of these submissions, Springfield Estates requests that this Committee consistent with the “Order of Proceedings” grant the appeal to approve Springfield Estates’ Application for an operating license and amend that license with conditions consistent with the powers granted to License Administrators under section 5(2)(b) of By-Law L-500 *Respecting the Construction and Operation of Land-Lease Communities*. More specifically, Springfield Estates requests the Application be granted by this committee with the condition that they provide regular updates to HRM Planning and Development regarding efforts to provide a continuous supply of potable water to residents of this community and remove the subject Advisory.³

Springfield Estates Existing Water Supply

Springfield Estates’ water supply is currently drawn from Little Springfield Lake, an unprotected lake approximately 0.5 kilometres northwest of Springfield Estates. Springfield Estates has drawn its water from Little Springfield Lake for more than five decades.

Importantly, now and for years prior, Springfield Estates has treated all water drawn from Springfield Estates using a purpose built and highly sophisticated water treatment and filtration plant (the “WTP”) operating under a regulatory Approval to Operate (2013-086454) issued by NSECC. The WTP in its current form was commissioned in or around 2012 by Mid-Valley Construction.

The WTP consists of the following process equipment:

- Raw water intake in Little Lake Springfield;
- Wet well with duplex submersible pumping system;
- 500 m of transmission main to WTP;
- Duplex strainers;
- Next Sand filter;
- Purolite ion exchange;
- Sodium hydroxide (caustic soda) injection;
- Sodium hypochlorite injection;
- Chlorine contact pipe;
- Green sand filtration;
- UV disinfection units;
- Clearwell (reservoir); and
- Distribution system.⁴

Since 2019, Springfield Estates has also invested almost \$1.5 million in rehabilitating its water delivery and sewer infrastructure within the community. While this investment was largely to address aging pipes and other infrastructure in the community, this investment was also intended

³ Appeal Book Tab 29

⁴ Appeal Book Tab 21, Page 1-2

to prepare the community to tie into HRM's municipal services, which are approximately 1 kilometre away from the community.

In late 2021, Springfield Estates engaged HRM to discuss a request for modifications to the subject "Urban Service Area Boundary", which would allow for water and sanitary service to be connected to the community. A formal request was made on January 4, 2022 and on January 20, 2022 Springfield Estates was advised by HRM Planning and Development staff, that the Middle Sackville area would be subject to a staff study (Phase 4) before extension of the subject Urban Service Area Boundary could be considered.⁵

On September 15, 2022 HRM staff reached out to Springfield Estates to advise that the subject study regarding Middle Sackville Urban Service Boundary extension requests would proceed in March 2023.⁶

On June 23, 2023 HRM staff advised that the relevant study considering Urban Service Extension (Phase 4) was completed, but did not consider requests from Middle Sackville. Due to competing goals, HRM would not consider expansion of the Urban Service Area Boundary in the Middle Sackville area until sometime beginning in 2024.

Accordingly, despite making significant investment in its water delivery infrastructure and being prepared to receive municipal water and sanitary service, to date, Springfield Estates has been unable to access same.

The Boil Water Advisory

As part of Springfield Estates' operation of its WTP, the system was regularly monitored by operations staff and sampled for chlorine residual, general water quality parameters, and disinfection by-products. Water quality was sampled at a sample tap on the distribution discharge prior to exiting the WTP and reaching residents.

For turbidity, grab samples would be taken from the sample tap and assessed by Springfield Estates' operations staff using a handheld turbidimeter with results recorded in an operator's log. For water quality, samples would be collected after each stage of treatment and analysed at a third-party laboratory for general water chemistry parameters and total metals.

Springfield Estates' then environmental consultants, ABL Environmental Consultants Limited reported the results of monitoring at the WTP to NSECC on or about December 1, 2021 when an exceedance of turbidity was noted. Over the course of the next several days turbidity increased, and Springfield Estates continued to report results to NSECC.⁷

NSECC Inspector, Jeff Dodd, as the assigned inspector made inquiries on December 6, 2021 regarding the function of UV disinfectant units at Springfield Estates, to which Springfield Estates responded that one of two UV units were setting off an alarm. Springfield Estates also provided supporting data regarding the current flow rate and water quality requirement before and after the UV units.⁸

⁵ Appeal Book Tab 5,

⁶ Appeal Book Tab 5, Page 1-2

⁷ Appeal Book Tab 1

⁸ Appeal Book Tab 14

On December 6, 2021, around the same time Springfield Estates was seeking an extension of the Urban Service Area Boundary for water service from HRM, the subject boil water advisory from NSECC came into effect for Springfield Estates (the “**Advisory**”).⁹

In a December 9, 2021 Email from Inspector Dodd, it was confirmed that high turbidity, in addition to equipment malfunctions were the basis for the Advisory. NSECC requested a Corrective Action Plan (“**CAP**”) to be prepared by an environmental professional setting out a plan for addressing issues of concern for the Advisory.¹⁰

Engagement with NSECC and the Corrective Action Plan

Upon being notified of the advisory, Springfield Estates immediately contacted environmental consultants at CBCL Limited for purposes of preparing a CAP for submission and approval by NSECC.

CBCL prepared the initial February 15, 2022 CAP, for submission to NSECC. Within the February 2022 CAP, CBCL indicated that it was the excess turbidity in Springfield Estates’ water supply, which led to the Advisory.¹¹ CBCL ultimately recommended a “phased” action plan, which was set out in the following summarized table indicating certain recommended action items and a schedule:¹²

Action Item	Schedule	Notes
Replacement of Next Sand Filter Media	As soon as filter media is available from supplier (Estimated 4 weeks)	The media has been ordered and is currently awaiting delivery and replacement. Replacement will occur one filter at a time to avoid WTP shutdown.
Replacement of Greensand Filter Media	As soon as filter media is available from supplier (Estimated 4 weeks)	Media has been ordered. Will be scheduled concurrently with next sand filter media.
Plumbing modifications to address oxidization		To be scheduled as media is replaced
Reduction of raw water volume	Ongoing	Measures currently under way to reduce volume of treated water vs demand. Raw water pumping controls may be implemented in the future.

The February 2022 CAP was accepted by NSECC on March 4, 2024. In Inspector Dodd’s email approving the February 2022 CAP, it was noted that “...the final plan must include either LT2

⁹ Appeal Book Tab 14

¹⁰ Appeal Book Tab 3, Page 6-7

¹¹ Appeal Book Tab 21, Page 11-12

¹² Appeal Book Tab 21, Page 16

filters, membrane units as per the CAP or other engineered filtration option.”¹³ This requirement was identified in the February 2022 CAP at recommendation 8, which stated as follows:

8. *Industry best practices for a registered water supply for pathogens removal, a filtration barrier rated for pathogens is recommended. Pathogen removal currently occurs in the Nextsand filtration process; however, filter efficiency and resulting pathogen removal has been historically poor. The addition of cartridge filtration (LT2 cartridges) is recommended to be in line with industry best practices.*

Springfield Estates immediately began implementing the accepted recommendations as set out in the February 2022 CAP, which were intended to address, primarily, turbidity, iron concentration and the implementation of a secondary, physical process for protozoa removal, the LT2 filters.

In an April 21, 2022 email to Inspector Dodd, Springfield Estates raised concern that development around Little Springfield Lake was of concern given the amount of silt which was visibly entering the lake.¹⁴

In the May 3, 2022 Interim CAP from CBCL, a status update on recommendations was summarized in the following table:¹⁵

<p>1. Increased monitoring of iron, manganese, and turbidity.</p>	<p>On-going</p>	<p>Regular bi-weekly sampling for total iron and manganese in the finished water and distribution system. Turbidity manually sampled daily after each treatment process. Raw turbidity, iron and manganese samples are analyzed using a Hach handheld spectrophotometer.</p>
<p>2. Replacement of NextSand Filter media</p>	<p>March 3rd & 22nd, 2022</p>	<p>The NextSand filter media was replaced, as the media was subjected to prolonged exposure of significant iron loading in the raw water. During this media replacement, it was also observed that the Aquamatic valving on the backwash inlet, this was removed to achieve the required backwash flow rate as per the manufacturer’s recommendations. Filter backwash cycles are scheduled daily or as filter head dictates.</p>

¹³ Appeal Book Tab 3, Page 3

¹⁴ Appeal Book Tab 3, Page 2

¹⁵ Appeal Book Tab 22, Page 4

<p>3. Replacement of greensand media</p>	<p>March 3rd & 22nd, 2022</p>	<p>The four greensand filters had their media replaced.</p> <p>Raw manganese grab samples analyzed on site report a total manganese concentration of >180 µg/L (above the MAC of 120 µg/L) where treated water in the reservoir reports a total manganese concentration of 2 µg/L.</p>
<p>4. Re-routing of greensand oxidation configuration</p>	<p>April 13th, 2022</p>	<p>Sodium hypochlorite injection point was relocated to immediately prior to the greensand filters. This was completed to oxidize the greensand media in lieu of oxidizing the iron and manganese ions within the partially treated water prior to filtration. This corrective action item has significantly decreased the total iron and manganese concentrations within the treated water.</p>
<p>5. LT2 Filter Cartridge Addition</p>	<p>Imminent</p>	<p>Two Harmsco Hurricane 1 micron filter cartridges were ordered to be installed in parallel downstream greensand filters and up-stream UV disinfection. The filters have been ordered but not yet received on site for installation. This upgrade aligns with industry best practices of having a filtration barrier for pathogens removal.</p>
<p>6. Continued Operational Assistance</p>	<p>On-going</p>	<p>The Springfield WTP has engaged with AIWUC a water/wastewater treatment operational support contractor to provide supplementary operational support in conjunction with optimizing current operating monitoring and procedures.</p>

The subject May 2022 Interim CAP was submitted to NSECC on May 26, 2022 via email.¹⁶

CBCL prepared an October 11, 2022 CAP. Within, it noted that the quality of water from the WTP had improved and was satisfying Canadian Drinking Water Quality Guidelines (“CDWQG”).

¹⁶ Appeal Book Tab 4

However, there was a note that the subject LT2 filters (for disinfection) were pre-maturely fouled and plugged due to iron particulate.¹⁷

With respect to “Process optimization Recommendations”, CBCL stated as follows:

The encouraging turbidity and iron removal rates resulting from the corrective action items implemented thus far are producing a finished water product that satisfies the CDWQG. However, continued process optimization is recommended to continue the improved water quality, improve resiliency of the treatment train, reduce the volume of water treated and wasted.¹⁸

Further, in the conclusion of the May 2022 Interim CAP, CBCL stated:

As the water quality satisfies the CDWQG and the operators continue to monitor the water quality and performance of the treatment components, Springfield Estates WTP is requesting NSE to have the Boil Water Advisory lifted. Process optimization efforts will continue to improve precipitated iron from the treatment system and monitoring of turbidity.¹⁹

CBCL submitted the subject October Interim CAP to NSECC on October 19, 2022 highlighting that the “the treated potable water quality satisfies the Guidelines for Canadian Drinking Water Quality, and increased water quality monitoring and regulatory sampling continue.” Inspector Dodd responded with certain inquiries as to changes in water quality since the subject Advisory was issued, to which CBCL responded on November 25, 2022 via email.

Inspector Dodd reverted to CBCL’s November 25, 2022 email on December 5, 2022 requesting additional bacteria sampling data, which was provided the same day advising no bacteria was present upon sampling. Inspector Dodd also advised that another inspector would be overseeing the file for the Middle Sackville area going forward, being Inspector Mariah Hunt.²⁰

Due to a departure of the responsible engineer at CBCL overseeing Springfield Estates’ matter, there was a brief period where CBCL was absent from advancing the CAP and removal of the Advisory.

In order to continue moving this matter forward, Springfield Estates moved quickly to retain alternative professional guidance from Atlantic Integrated Water Utility Consultants (“AIWUC”) for further assessment of the performance of the WTP in their community with respect to UV disinfection and the improvements to same as a result of the CAP recommendations.

In an April 19, 2023 email, AIWUC wrote NSECC advising that the premature fouling of the LT2 cartridges had been addressed by changing filter media and making process improvements to the UV units. As a result, UV units were operating well with the subject process improvements and AIWUC recommended that the secondary physical component of protozoa removal – the LT2 filters – were rendered unnecessary.

¹⁷ Appeal Book Tab 23, Page 6

¹⁸ Appeal Book Tab 23, Page 12

¹⁹ Appeal Book Tab 23, Page 14

²⁰ Appeal Book Tabs 6 and 7

NSECC, in consideration of Springfield Estate's request to lift the Advisory, inquired via email on April 19, 2023 regarding certain points of clarification from AIWUC, to which AIWUC responded in support of the request. On May 2, 2023 NSECC requested clarification as to why the LT2 filters – as physical protozoa removal units – were no longer necessary. AIWUC advised that iron levels were no longer affecting systems following upgrades to the WTO, including changing upgrades to the UV light system, changes to filter media, and upgrading filters, the pre-maturely failing LT2 filters were no longer necessary.

Despite AIWUC's opinion, NSECC indicated that because the original CAP required the LT2 filters, and because their specialist required two types of filtration for protozoa, they would not approve the removal of the Advisory without revisions to the CAP by the original CBCL specialist.²¹

CBCL prepared another Interim CAP dated June 19, 2023. Within, they noted that with the exception of successful LT2 filter implementation, Springfield Estates had completed virtually all recommendations under the CAP.

CBCL repeated that the LT2 filters would foul rapidly and require replacement due to particulate. This challenge was resulting in finished water which, at that time, was not meeting CDWQG. CBCL recommended the following further enhancements beyond the capability of the existing system:

1. *Inspection of the raw water intake and investigation by a diver into the integrity of the existing intake and modifications available for the lake should be performed.*
2. *An inline booster pump prior to the LT2 cartridges. This could allow for longer LT2 filter run times.*
3. *Additional process optimization of pretreatment upstream of LT2 filters to allow reliable LT2 performance.*
4. *Through PLC automation and real-time monitoring of water quality, the system can be configured to send filtered water to waste during start-up and post-backwash until reaching an acceptable turbidity setpoint configured by operators.*
5. *Introduction of a coagulant upstream of existing filtration to enhance particle removal.*
6. *Installation of a membrane treatment process such as reverse osmosis (RO) or ultrafiltration (UF) to significantly reduce the turbidity and improve water quality to prevent fouling of the LT2 filters.*
7. *Replacement of the water supply with groundwater.*
8. *Replacement of the water supply with municipal water²²*

Stop Gap Measures and Implementing Alternatives

Consistent with the Advisory, Springfield Estates advised all residents of the community of the subject Advisory upon its implementation by delivering a physical copy of the notice, and providing same upon any new resident's moving into the community.

²¹ Appeal Book Tab 8

²² Appeal Book Tab 23(a), page 11-12

On April 5, 2023 Springfield Estates provided a formal update to all residents relating to its efforts since the Advisory was issued to resolve issues of concern for NSECC.²³

In the face of continued difficulty with the lifting of the Advisory, on October 18, 2023, Springfield Estates provided formal notice to its residence with an update as to next steps in terms of lifting the Advisory.

As part of Springfield Estates' commitment to the residents of the community, and despite consistently achieving CDWQG, a program for delivery of bottled water was established whereby Springfield Estates would deliver bottled water to every household weekly.²⁴

Since November 23, 2023, Springfield Estates incurred more than **\$19,860.18** to supply bottled water on a weekly basis to the residents of the Community while it resolved its supply issue for potable water.²⁵

Having exhausted all options with NSECC to utilize Little Lake Springfield with the WTP, Springfield Estates asked CBCL to conduct a ground water study given it was a recommended alternative in the June 2023 Interim CAP.

Springfield Estates remained in contact with Inspector Hunt of NSECC regarding its progress towards a continuous supply of potable water during later 2023 and specifically the possibility of a ground water alternative for water supply. On October 17, 2023, Springfield Estates advised Inspector Hunt that a test well had been drilled and tests were being conducted.²⁶

CBCL conducted its assessment, including the drilling of a 6" test well in September 2023. In their October 20, 2023 Groundwater Supply Study, CBCL determined that "...a reliable groundwater supply is available for Springfield Estates."²⁷

CBCL reported that the existing WTP was well suited to treat ground water quality supply with only minor modifications. Modifications would include an upgrade to treat for iron and manganese, the reassessment of caustic soda dosing system (to prevent corrosion and acidity) and the construction of a purpose built well pump and electrical system appropriate to deliver water from the well to the WTP.²⁸

In a subsequent November 30, 2023 Well Control and Treatment Design Proposal, CBCL set out the suggested configuration for a groundwater-based water supply for Springfield Estates' WTP. The proposal included the "...design of the well pump and well internals, electrical control equipment, connection details to the existing water distribution main, and water treatment system upgrades to provide treatment of the groundwater source." CBCL's proposal would completely remove the use of Little Springfield Lake as a water source for the community.²⁹

As of January 4, 2024, CBCL provided an update on advancements towards achieving a continuous potable water supply from groundwater. With respect to upgrades, Springfield Estates

²³ Appeal Book Tab 13(a)

²⁴ Appeal Book Tab 16

²⁵ Appeal Book Tab 20

²⁶ Appeal Book Tab 10

²⁷ Appeal Book Tab 24

²⁸ Appeal Book Tab 24, Page 9-10

²⁹ Appeal Book Tab 25, Page 1-2

was to develop a “well control building”, to be built adjacent to the wellhead, and which would contain electrical panels, pump power supply, flow monitoring equipment, pressure sensor, and pressure tank configured to maintain the level in the treated water reservoir supplying potable water to the community. Additionally, a water main connection would need to be installed. With respect to the water reservoir and water treatment equipment, both existing systems would be utilized with some modification.³⁰

AIWUC, on behalf of Springfield Estates updated Inspector Hunt of NSECC on January 9, 2024 via email. In this update, AIWUC advised that the subject well was then in place and had been tested by and assessed by CBCL hydrogeologists. AIWUC inquired whether permitting was required for commissioning the system, to which NSECC indicated the only approval would be the Water Withdrawal approval.³¹

On January 25, 2024, Springfield Estates was granted a Mixed Use and Commercial Building Permit and Grade Alteration permit from HRM for construction of the subject well control building and associated pad.³²

Springfield Estates has been advised by CBCL that they will facilitate contact with NSECC regarding the application for Water Withdrawal Approval and will prepare and file that application once the WTP system is operational using groundwater supply.

Accordingly, as the subject well has been constructed, and NSECC requires only a water withdrawal approval, the only remaining components for commissioning of this groundwater supply to the WTP – and subsequently to residents – is completion of the well control building and the minor process alterations at the WTP to treat groundwater.

Dealings with and Prosecution by Halifax Regional Municipality

Springfield Estates’ dealings with HRM regarding the Advisory have been sporadic and, at times, informal dating back to mid-2022.

It is the lack of a consistent communication channel between the two entities on this issue, which has resulted in the current relationship as between Springfield Estates and HRM as its regulator for land lease communities.

On June 30, 2022, Springfield Estates filed an Application for Mobile Home Park Operating Permit/License with HRM. Within this application was the subject Advisory.

On August 29, 2022 HRM conducted an inspection of Springfield Estates and did not identify any issues which would prevent the issuance of the applied for permit.³³

On October 14, 2022 HRM sent a letter revoking the previously issued operating permit advising that it had been “issued in error” as no confirmation was included from NSECC advising that Springfield Estates’ water system was within provincial regulations.³⁴

³⁰ Appeal Book Tab 25

³¹ Appeal Book Tab 11

³² Appeal Book Tabs 18 and 19

³³ Appeal Book Tab 13

³⁴ Appeal Book Tab 13 (b)

On December 6, 2022 during the period following the subject revocation, HRM Compliance Officer Richard Weckworth reached out to Springfield Estates via telephone requesting an update as to status of the continuous provision of potable water. CO Weckworth was informed by Springfield Estates that their water supply was within CDWQG, but that the Advisory remained. An update as to the relevant CAP was also provided to CO Weckworth along with details of process updates to the WTP.

CO Weckworth called Springfield Estates again on December 22, 2022 asking for test results related to the subject water testing illustrating compliance. Springfield Estates advised they would attempt to gather for HRM.

On January 5, 2023, CO Weckworth contacted Springfield Estates again on a follow up call and was advised that they were unable to share documentation related to efforts to resolve the Advisory without permission from NSECC.

HRM did not contact Springfield again until in or around June of 2023 when Councillor Lisa Blackburn reached out regarding certain complaints from residents about water quality and the Advisory. Councillor Blackburn advised that there was prospectively municipal water service coming to the area of Springfield Estates, though this was anticipated to happen several years in the future. Councillor Blackburn was advised of the extensive investment in Springfield Estate's infrastructure in preparation of same.³⁵

The next communication from HRM to Springfield Estates was a June 22, 2023 Summons in Provincial Court.³⁶ Pursuant to the subject Summons, Springfield Estates was alleged to have committed an offence contrary to sections 9.1 and 9.8(a) of HRM By-Law 29, which reads as follows:

9.1 The mobile home park owner shall annually obtain a Mobile Home Park Operating Permit pursuant to Part 11.

9.8 The mobile home park owner shall:

a) provide a continuous supply of potable water to all mobile homes in the mobile home park; and

The relevant extract of Part 11 reads as follows:

11.1 No person shall operate a mobile home park in the Municipality without having first obtained from the Development Officer a Mobile Home Park Operating Permit issued under this part.

...

11.6 Prior to issuing a Mobile Home Park Operating Permit, the Development Officer shall require that an annual inspection report be received from:

a) the Nova Scotia Department of Health stating that the mobile home park's water distribution and sanitary sewerage systems conform to the requirements of the Nova Scotia Health Act.

³⁵ Appeal Book Tab 9

³⁶ Appeal Book Tab 15

Following the allegation of having violated By-Law 29, and as set out above, Springfield Estates continued in its efforts to achieve a continuous supply of potable water for its residents and implemented the above noted stop gap measure in the interim.

As efforts continued and despite pending prosecution for the alleged offences, Springfield Estates filed the Application seeking to re-open communication with HRM and achieve compliance under By-Law L-500, which replaced the now repealed By-Law 29.

Springfield Estates filed the Application on December 11, 2023 and was notified of its denial on January 17, 2024 via email enclosing the formal notice, dated January 5, 2024.

A CONDITIONAL OPERATING LICENSE IS Appropriate

As stated at the outset of these submissions, Springfield Estates is requesting that the Application be approved by this Committee on a conditional basis consistent with the powers granted to License Administrators under section 5(2)(b) of By-Law L-500 *Respecting the Construction and Operation of Land-Lease Communities*.

It is abundantly clear that Springfield Estates has demonstrated reasonable due diligence in retaining the appropriate environmental professionals and implementing all reasonable recommendations proposed in an effort to achieve a continuous supply of potable water. As a result of development in the area and changing environmental conditions at Little Lake Springfield – and through no fault of its own – Springfield Estates has been forced to identify and implement strategies over the course of the past two years to remove the Advisory and achieve quality supply of water for its residents.

Despite engaging environmental consultants, hydrogeologists, engineers and regulators, the Advisory remains in place. However, as has been demonstrated here, it is all but certain it will be removed once the WTP is commissioned with the new groundwater source and the infrastructure (i.e., the well control building) completed.

It is also clear that the revocation of Springfield Estates original operating license, the denial of the Application that is the subject of this appeal, and the prosecution under By-Law 29 are largely due to what can only be characterized as poor communication as between Springfield Estates and HRM on the issues at hand.

Foreseeably, had there been consistent communications with HRM regarding Springfield Estates' efforts to resolve its water supply issues, compliance may not have been necessary. The two entities could have cooperated in the interests of residents of this community.

However, at this juncture, despite nearing a solution, Springfield Estates is not only facing prosecution under By-Law 29 but the possibility of further prosecution for operating without an Operating License under By-Law L-500.

While not stated in the Summons, a violation of a HRM by-law is an offence under section 369 of the *Halifax Regional Municipality Charter*. Which carries substantial exposure to fines for each offence, and in which each day an offence continues may be considered a separate offence.³⁷

³⁷ Appeal Book Tab 28

In the face of continued and possible future prosecution, Springfield Estates' future as a source of affordable housing for 169 units is in jeopardy.

Springfield Estates submits that it is neither constructive nor responsible for HRM to potentially devastate the already critical supply of housing in HRM by jeopardizing the viability of an affordable housing in the region.

Affordable Housing in Nova Scotia

In 2023, the Province of Nova Scotia requested a housing needs assessment be completed by independent consultants at Turner Drake & Partners Ltd. The final report was published in the fall of 2023 and entitled "Nova Scotia's Provincial Housing Needs Assessment Report" (the "**Needs Assessment**").

Within the Needs Assessment, it reported that by the end of 2022 there was a shortfall of housing units in Nova Scotia of **27,300 units**, predicted to increase to 71,600 by 2027. Of those 27,300 units, there was a **17,500 unit shortfall in HRM alone in 2022**, predicted to increase to 52,050 by 2027. Even with predicted construction of new homes, there would still be a shortfall of 31,000 units by 2027 in HRM.³⁸

The lack of availability of homes in Nova Scotia, and specifically in HRM is evident based on the historical trend in vacancy rates. According to CMHC, while a healthy vacancy rate is between 3-5%, HRM's vacancy rate has been "lower than healthy" since approximately 2015-2016. At the time of the publication of the Needs Assessment, the vacancy rate across Nova Scotia was below 1%.³⁹

Moreover, for those who are left to find rentals in the open market, CMHC reports that turned-over units (those rented to a new tenant once another contract is complete) in Nova Scotia saw a 28% increase between 2021 and 2022.⁴⁰

For units that are available for rent in HRM, tenants may face rents that are on average \$1,425 or \$1,623 for a two- or three-bedroom unit, respectively.⁴¹ This must be contrasted with Springfield Estates, a provider of affordable serviced lots its residents for a monthly fee on average of \$347.00/monthly.

In the event that Springfield Estates' viability is compromised for fear of continued prosecution, there will be reverberations felt in HRM's already fragile housing market. Many of the families of this community own their units, and if the community is shuttered, they will face the burden of either selling their home and entering the already volatile housing/rental market, or attempting to relocate to another land lease community at a substantial, if not unattainable, financial cost.

For the reasons set out in these submissions, Westphal Court submits that a conditional operating license incorporating a requirement for regular communication as between HRM and Springfield Estates is appropriate.

³⁸ Appeal Book Tab 27, Page 54-55

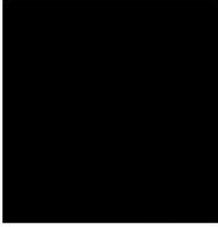
³⁹ Appeal Book Tab 27, Page 92-93

⁴⁰ Appeal Book Tab 27, Page 4

⁴¹ Appeal Book Tab 27, Page 91

Springfield Estates thanks the Committee for the opportunity to make these submissions, and looks forward to appearing before it to discuss this matter further.

Yours Truly,



Dylan A. F. MacDonald

Westphal Court Limited
c/o Heather Scott, President

224 Milo Terrace
Beaver Bank, N.S.
B4E OK3

Office Phone: [REDACTED]

E-mail: [REDACTED]

February 6, 2024

Halifax Regional Municipality Appeals Standing Committee

Re: Appeal of Application for a Land-lease Community Operating License for Springfield Estates Land Lease Community (application No. BA-2023-003972)

Dear Committee Members,

Please be advised that as President of Westphal Court Limited, operating Springfield Estates land lease community, I authorize my counsel, Dylan A. F. MacDonald of Stewart McKelvey to represent Westphal Courts Limited in the above noted appeal before the Halifax Regional Municipality's Appeals Standing Committee.

Regards,

[REDACTED]
Westphal Court Limited
Heather Scott, President

Note: Pages 18-430 are marked "Personal" and have been removed from this document.

Attachment C: Notice of revised appeal hearing date

February 26, 2024

**REGISTERED MAIL
&
EMAIL - [REDACTED]**

CANADA POST / POSTES CANADA		REGISTERED DOMESTIC CUSTOMER RECEIPT	RECOMMANDÉ RÉGIME INTÉRIEUR REÇU DU CLIENT	R
To / Destinataire	Name / Nom	FOR DELIVERY CONFIRMATION / CONFIRMATION DE LA LIVRAISON		
Address / Adresse	City / Prov. / Postal Code / Ville / Prov. / Code postal	canadapost.ca / postescanada.ca		
Declared Value / Valeur déclarée	\$	1 888 550-6333		
33-086-584 (17-12)		CPC Tracking Number / Numéro de repérage de la SCP		

Dylan A. F. MacDonald, on behalf of Heather Scott, President, Westphal Court Limited
Stewart McKelvey
Queen's Marque, 600-1741 Lower Water Street
P.O. Box 997
Halifax, NS B3J 2X2

Re: BA-2023-003972 - Application for a Land-lease Community Operating License for Springfield Estates Land Lease Community

On February 7, 2024 I sent you a notification letter via registered mail and email notifying you that the appeal of BA-2023-003972 - Application for a Land-lease Community Operating License for Springfield Estates Land Lease Community was scheduled to be heard by the Appeals Standing Committee on Thursday, March 7, 2024.

This is to advise that due to the length of the appeal materials submitted, staff will require more time to prepare for the appeal hearing and the appeal hearing is being rescheduled to the Thursday, April 11, 2024 meeting of the Appeals Standing Committee. The hearing will be held in the Council Chamber, 3rd Floor, City Hall, 1841 Argyle Street, Halifax. Please arrive for 10:00 a.m. but note that there may be other cases heard before yours on the agenda.

If you cannot attend in person and must participate using Zoom, please let me know no later than 4:30pm on the business day prior to the meeting.

The staff report for this matter will be posted online to the Appeals Standing Committee web page at Halifax.ca by end of day Friday, April 5, 2024. If you require a hard copy of the report, please contact our office.

If filing an appeal, be advised that your submission and appeal documents will form part of the public record, and will be posted on-line at www.halifax.ca. If you feel that information you consider to be personal is necessary for your appeal, please attach that as a separate document, clearly marked "PERSONAL". It will be provided to the Standing Committee and/or council members and staff, and will form part of the public record, but it will not be posted online. You will be contacted if there are any concerns.

Should you wish to include images, video or audio as part of your appeal presentation to the Standing Committee, you must notify me by end of day Tuesday, April 9, 2024 to allow for technical preparation and testing.

Should you be unable to attend, you may have a representative attend to present the appeal to the Standing Committee. Please note that your representative is required to have a letter signed by you giving permission. You or your representative may have witnesses or other evidence in support of the appeal and will be permitted up to 10 minutes to make a verbal submission. A copy of the appeals process is

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Halifax Regional Municipality
PO Box 1749, Halifax, Nova Scotia
Canada B3J 3A5

halifax.ca

attached. If neither you nor a representative appears, the hearing will proceed and you will be advised of the Standing Committee's decision.

If you have any questions regarding this process, please contact me at 902-240-7164, lovasis@halifax.ca

Sincerely,



Andrea Lovasi-Wood
Legislative Assistant
Office of the Municipal Clerk

cc: Andrea MacDonald, Director, Community Standards & Compliance
Peter Nightingale, Manager, License Standards
Tanya Snair, Supervisor Licensing & Ticketing Admin

Enclosures:

- Information – Attending In Person Meetings
- Order of Proceedings for Appeals Standing Committee