



DEPARTMENT OF MUNICIPAL AFFAIRS NOVA SCOTIA

OFFICE OF THE DEPUTY MINISTER

HALIFAX, NOVA SCOTIA

July 10, 1972

TO ALL TOWN AND MUNICIPAL CLERKS PROVINCE OF NOVA SCOTIA

Dear Sir or Madam:

Re: BY-LAWS

This is a matter that is becoming of sufficient importance that I feel justified in asking you to call it to the attention of your council.

It should not be necessary for me to say that a by-law is a very serious matter. It can result in fines and imprisonment. It can and sometimes does result in substantial expenditure of funds for legal costs. In certain cases it can permit the expenditure of unlimited amounts by a municipal unit in order to bring a property into conformity with the by-law.

Until recently, this Department has assumed that no council would pass a by-law unless the by-law had been prepared and recommended as to form by its solicitor. Within the last year or so we have been receiving an increasing number of by-laws containing so many defects that we consider it unlikely that the municipal solicitor has examined them at all. As an example, we are now examining a by-law respecting minimum standards of housing accommodation, which would apply to existing as well as new housing. I give you one or two examples from this by-law:

- (1) part of the administrative machinery is probably void for uncertainty;
- (2) rooms, including a bathroom, shall be at least seven feet long, at least seven feet wide and at least sixty square feet;

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- (3) doors such as storage rooms and garbage rooms must be at least six feet six inches high and two feet six inches wide;
- (4) the landlord is responsible for the accumulation of waste in his rented premises although it is not clear by what right he can enter upon them;
- (5) hardwood flooring in entrance halls is prohibited.

I think I should explain, in case it is not generally known, that the practice in this Department has always been that the Minister does not ordinarily interfere with a policy decision of a council unless it is clearly unreasonable; and that the Minister does not withhold approval of a by-law for possible invalidity unless it is clearly invalid. It is therefore unwise to rely upon the staff of this Department for the validity or the reasonableness of a by-law. Even within this limited extent, we are frequently under pressure to approve a by-law that is quite clearly invalid; and in one case it cost the municipal unit almost \$10,000 to obtain a court decision confirming what we had already said.

I think it is impossible to impress too strongly on municipal councils the need of having their by-laws prepared and certified by the municipal solicitor.

Because of the increasing amount of unnecessary work that failure to do this is placing upon the staff of this Department and because of the necessity for a municipal unit to have valid and reasonable by-laws, I have to discuss with my Minister the advisability of seeking amendments to the Towns Act and the Municipal Act so as to require by-laws to be certified by a municipal solicitor to have been approved in form by him, before they are submitted to this Department.

Yours very truly,


W. E. MOSELEY
DEPUTY MINISTER

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