

September 16, 2024

BY EMAIL (AFisher@amherst.ca)

Attn: Planning Advisory Committee
Town of Amherst
P.O. Box 516
98 Victoria Street East
Amherst, NS B4H 4A1

Dear Mr. Fisher:

RE: PID 25031626, 19 Spring Street, Amherst, Nova Scotia

I am writing to follow up with our meeting on September 12, 2024. That morning, Ms. Wainwright contacted me on behalf of the Town of Amherst to schedule an immediate meeting with Ms. Hutchinson and myself. We agreed to meet you at Town Hall that evening where you and Ms. Wainwright explained that the Town decided to issue an Order to Vacate 19 Spring Street, effective that night.

At the conclusion of the meeting, Ms. Wainwright provided Ms. Hutchinson and I a copy of the Order to Vacate, which alleges the property is in violation of the *Municipal Government Act* and the *Minimum Standards for Residential Occupancies Bylaw*. Such allegations include that the “basement windows are in poor condition”, that “both chimneys are in poor condition”, that the “unoccupied unit does not appear to have the ability to be heated” and the building is “structurally unsafe”.

On September 3, 2024, the Planning Advisory Committee held a public meeting to discuss 19 Spring Street and distributed an electronic document package. This package advises that an inspection of the building was completed by the Dangerous and Unsightly Premises Administrator, the Building Official, and others. I am not in possession of any formal Inspection Report resulting from the inspection, but instead only have an itemized list of the inspecting parties’ observations. I note that during the public meeting, the Building Official, Marc Buske, conceded that no structural assessment of 19 Spring Street had been completed. Despite having no structural assessment, he conclusively determined that the alleged deficiencies could not be addressed without evicting the existing tenant, Ms. Hutchinson.

During our meeting on September 12, 2024, Ms. Wainwright and yourself confirmed that no structural assessment had been completed to-date. Accordingly, the issuance of the Order to Vacate and the Town’s opinion appears to rest on the conclusion of the Building Official that the work deemed necessary to bring the building up to code cannot be completed while the tenant continues to live there.

Respectfully, I am concerned that the Town of Amherst and Planning Advisory Committee are failing to comply the Supreme Court of Canada's direction that administrative decision-makers make objective decisions that are justified in relation to the constellation of law and facts (see: *Canada v. Vavilov*, 2019 SCC 65). I am similarly concerned that the Town of Amherst is failing to respect the principle of due of process by issuing an Order to Vacate and considering demolition of 19 Spring Street in the absence of a structural assessment or third-party opinion as to the state of the building and options for restoration.

The Town of Amherst and Planning Advisory Committee have an obligation to consider the potential impact of their decisions on those involved (see: *Rector v. Colchester (Municipality)*, 2023 NSSC 405). As an administrative decision-maker, they must exercise their authority objectively and reach conclusions that are justified in law and fact, and they must adhere to the principle of due process. As a party immediately effected by any decision the Town or Planning Advisory Committee makes, Ms. Hutchinson submits that a formal structural assessment must be completed to assess the integrity of the building and a third-party opinion obtained to confirm what, if any, work can be completed to building to address any immediate concerns, before demolition of the building can be properly considered.

Sincerely,



Zachary MacMillan
Staff Lawyer – Amherst Office
Nova Scotia Legal Aid