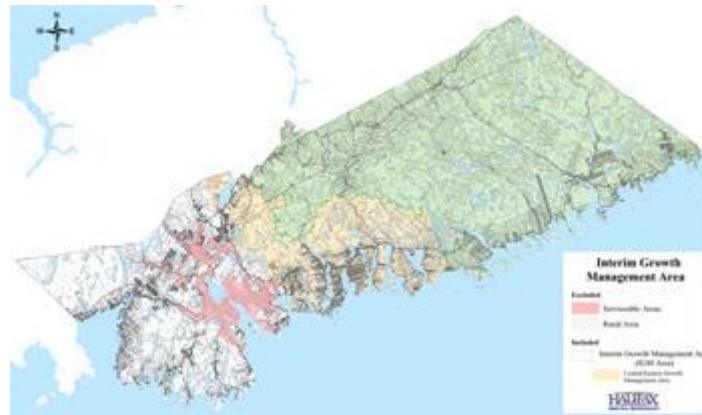


## H.R.M. STRUGGLES WITH SUCCESS (Newsletter Fall/Winter 2004)



On January 22nd 2004, the Halifax Regional Municipality (HRM) froze new residential development in most unserviced areas of the municipality for a period of 90 days. Only the rural area lying about two hours driving time away from the Halifax CBD along the Eastern Shore (shown coloured green on the plan) escaped the moratorium. HRM restricted their lot approval to a single permit for any newly subdivided area of land, approved after January 22nd 2004. This rather drastic action was precipitated by their growing concern at the explosive growth of unserviced subdivisions, which in turn were fuelled by the current housing boom. The geography in much of HRM is not particularly tolerant of on-site services. The igneous and metamorphic bedrock provides limited groundwater resources and the presence of minerals/elements such as arsenic, uranium and radionuclides have resulted in pressure on the municipality, from home owners, to rectify their drinking water problem by extending municipal water services. Ground saturation from a multiplicity of septic systems and excessive road maintenance costs convinced HRM that it had to take action now, rather than wait until the new Regional Development Plan was completed in September 2005. Cunning developers had thwarted the purpose of controls imposed under the existing Development Plan in the Hammonds Plains area by taking pre-emptive action during the consultative process; hence HRM's decision to bushwhack them with their January 22nd announcement.

During the post January 22nd moratorium HRM worked feverishly to fashion an Interim Growth Management Strategy to contain development until the new Regional Development Plan could be implemented. The moratorium expired on April 20th 2004 and was replaced by the Interim Growth Management Strategy which itself went through a number of iterations before crystallizing into a form that was broadly acceptable to HRM and the development community.

The Interim Growth Management Strategy applies to the areas shown coloured white and brown on the map, i.e. the areas of HRM that do not have access to municipal water and sewer services, and lie within the urban metropolitan commuter belt. Some areas already have growth controls (Dartmouth, Hammond's Plains/Upper Sackville/Beaver Bank, Bedford, Halifax, Eastern Passage/Cow Bay) and these continue to be in force and in effect under the Interim Growth Management Strategy.

The Interim Growth Management Strategy prohibits new roads (public or private); more than 3 flag lots per parcel of land that existed prior to January 22nd 2004 (unless they were shown on Preliminary, Tentative and Final subdivision applications) and eliminates the "final endorsement" stage

under the Subdivision By-law. So, you can now only create new lots on existing public and private roads. All Tentative and Final subdivision applications on file with HRM prior to January 22nd 2004 are allowed to proceed. Concept subdivision applications filed before January 22nd 2004 can also proceed but are restricted to 25 new lots per year. All flag lots shown on Preliminary, Tentative and Final subdivision applications can also proceed. Approved development agreements and completed applications in process prior to January 22nd 2004 can proceed as well.

The Central/Eastern Growth Management Area, shown coloured brown on the map, is subject to the Interim Growth Management Strategy outlined above *however new public roads are permitted* provided that they intersect or extend only from existing public roads ... so long as they do not intersect Trunks #2 or #7, Routes #207, #318 or #357. Development along these new roads is restricted to 8 lots per year. (The Central/Eastern Growth Management Area comprises a portion of Musquodoboit Valley-Dutch Settlement, Eastern Shore [West], Lake Echo/Porters Lake/Chezzetcook [Planning Districts 8 & 9], all of Lawrencetown, The Prestons and Lake Major Planning Area, a portion of Planning Districts 14 & 17 [Waverley], and Enfield except between Grand Lake and Dartmouth/Bedford boundary).

### **Quo Vadis Property Values?**

What impact does this have on property values in HRM? Irrespective of whether your property is located inside or outside the Interim Growth Management Strategy area, its value will be impacted ... particularly if the controls are extended into the new Regional Development Plan.

HRM argues that there is already an ample supply of unserviced lots available under the Interim Growth Management Strategy (IGMS) and consequently lot prices will not increase because of the Strategy. The development community disputes HRM's lot inventory figures. In a sense, this is a dispute about semantics. Some sort of development controls are inevitable and will find their way into the new Regional Development Plan. During the short term, before the Plan is implemented, the IGMS will drive down the value of land, the development of which is now constrained by the planning controls. The value of land suitable for development ultimately depends on demand for its end use, e.g. residential, commercial or industrial. Since aggregate demand is not impacted by the IGMS, the value "lost" by property constrained by the planning controls should in theory have shifted to the unaffected property, so the latter should have gone up in value by a commensurate amount. In actuality however a degree of uncertainty has been introduced by the IGMS, and in particular the prospect of a new Regional Development Plan which will not be implemented until late 2005. Because of this timing issue, the lands unaffected by the IGMS will not benefit fully from this shift in value unless, and until, they continue to enjoy development privileges under the new Regional Development Plan. The bottom line is that the moratorium freezing new development has changed the water on the beans. It set in motion a process which prohibits or restricts development on some property, and that in turn diminishes its value. Other property will increase in value as a consequence.

### **Valued ... and Valueless**

The arbitrary redistribution of property rights (and values) through the planning process should be of great concern to all of us, not just those unfortunate owners who are adversely effected. The sanctity of private ownership, like the rule of law, is part of the bedrock which underlies all successful market economies. It is a critical part of the conversion process for any country proceeding from feudalism or communism, to an open economy. Most of our individual wealth resides in the property we own and it is a major source of capital. In our experience its importance, and role in the economy, is not well recognised by our public sector: they generally treat private property rights in a cavalier manner, nuisances that make their job more difficult. The Canadian Real Estate Association attempted and failed to get protection of property rights embodied in the Canadian Charter of Rights and Freedoms.

It is therefore left to each property owner to defend the bundle of property rights that in total represent "ownership", against attempts by government to remove them stick by stick, without compensation. The most blatant attempts to abrogate private property rights occur when public authorities need to acquire real estate for public purposes. "Purchase at the lowest price" is too often the mantra employed ... whilst the politicians stumble through the process, usually bewildered by the virulence of the owner's reaction to the confiscation of their property. Confiscation of property rights resulting from new planning controls is even more insidious because the expropriation occurs without offsetting compensation. As a result public opposition often thwarts what are often necessary changes to land use that benefit the community at large. We need to think "outside the box" and implement a procedure that compensates owners whose properties suffer a value loss as the result of new, but necessary planning controls. This could change the planning process from one in which each property owner resists changes which adversely impact their property value, to a less adversarial exercise focussed on maximising benefit to the entire community.