

**Two Properties with Heritage Easement Agreements –
Intention to Designate, Part IV, *Ontario Heritage Act***

Date:	May 31, 2007
To:	Etobicoke York Community Council
From:	Director, Policy and Research, City Planning Division
Wards:	13 and 17
Reference Number:	

SUMMARY

This report recommends that City Council state its intention to designate the properties at 70 High Park Avenue (Third Church of Christ, Scientist) and 1100 Lansdowne Avenue (Canada Foundry Company Warehouse) under Part IV of the *Ontario Heritage Act*.

Each property has a heritage easement agreement registered on title. City Legal has advised that any property with a heritage easement agreement should also be designated under Part IV of the *Ontario Heritage Act* to allow the Chief Building Official to refuse to issue a permit on the basis of lack of conformity with applicable law.

RECOMMENDATIONS

City Planning Division recommends that

1. City Council state its intention to designate the property at 70 High Park Avenue (Third Church of Christ, Scientist) under Part IV of the *Ontario Heritage Act*;
2. City Council state its intention to designate the property at 1100 Lansdowne Avenue (Canada Foundry Company Warehouse) under Part IV of the *Ontario Heritage Act*;
3. If there are no objections to the designations in accordance with Section 26(6) of the *Ontario Heritage Act*, the solicitor be authorized to introduce the Bills in Council designating the properties under Part IV of the *Ontario Heritage Act*;

4. If there are objections in accordance with Section 29(7) of the *Ontario Heritage Act*, the Clerk be directed to refer the proposed designations for which there are objections to the Conservation Review Board; and
5. The appropriate City Officials be authorized and directed to take necessary action to give effect thereto.

Financial Impact

There are no financial implications resulting from the adoption of this report. The public Notice of Intention to Designation will be advertised on the City's web site in accordance with the City of Toronto Act provisions.

DECISION HISTORY

At its meeting of May 11, 2007, the Toronto Preservation Board adopted the recommendations in the staff report dated March 7, 2007 that 20 properties with heritage easement agreements in place or pending be recommended for designation under Part IV of the *Ontario Heritage Act*. The properties at 70 High Park Avenue and 1100 Lansdowne Avenue are located within the boundaries of the Etobicoke York Community Council. The remaining 18 properties identified in the March 7, 2007 report are the subject of a separate report to the Toronto and East York Community Council.

Reports recommending that City Council state its intention to designate an additional 23 properties with heritage easement agreements (21 in Toronto and East York, one in Scarborough, and one in Etobicoke) are on the agenda of the Toronto Preservation Board for its meeting of June 4, 2007. It is anticipated that the reports will be considered by the respective Community Councils on June 26, 2007.

ISSUE BACKGROUND

There are approximately 40 properties included on the City's heritage inventory for which heritage easement agreements have been registered or City Council has granted authority to enter into an agreement. A heritage easement agreement is a voluntary agreement between the City and a property owner and is considered the strongest form of protection for heritage properties because it is registered on title and usually runs in perpetuity. These 40 properties are not currently designated under Part IV of the *Ontario Heritage Act*.

City Legal advises that when the City's Chief Building Official (CBO) receives a permit application, Toronto Building cannot refuse to issue the permit unless to do so would contravene the *Building Code Act*, the building code or any other "applicable law." In the *Building Code Act* (Section 22), heritage easement agreements are not referenced as "applicable law" and cannot be used as grounds to refuse a permit. However, in the *Building Code Act*, the *Ontario Heritage Act* is referenced as applicable law concerning

designation, and the CBO can refuse to issue a permit where to do so would conflict with the designation.

For this reason, it is important that the properties with heritage easement agreements in place or in progress also be protected under Part IV of the *Ontario Heritage Act*. In addition, designation is a requirement to be eligible for the City's heritage property tax rebate program.

The heritage easement agreements already in place for the properties at 70 High Park Avenue and 1100 Lansdowne Road describe the "heritage attributes" of each property that the owner has agreed to preserve. In many cases, the heritage easement agreement was negotiated as part of a development agreement that resulted in changes to the property and the identification of only portions of the building as heritage attributes. The Reasons for Designation attached (Attachments No. 1B and 2B) describe the same heritage attributes identified in the heritage easement agreements. As a result, the City is not imposing any additional restrictions on the property owners.

COMMENTS

The properties at 70 High Park Avenue (Third Church of Christ, Scientist) and 1100 Lansdowne Avenue (Canada Foundry Company Warehouse) are worthy of designation under Part IV of the *Ontario Heritage Act* for their cultural heritage value or interest, and meet the criteria for municipal designation prescribed by the Province of Ontario. Location maps and photographs are attached (Attachments Nos. 1A and 2A).

The Reasons for Designation (Attachments Nos. 1B and 2B) are intended to be posted on the City of Toronto's web site and served on the owners of the properties and the Ontario Heritage Trust according to the provisions of the *Ontario Heritage Act*. The Reasons for Designation for each property includes a statement of the cultural heritage value with a description of its heritage attributes.

This report recommends that City Council state its intention to designate under Part IV of the *Ontario Heritage Act* the properties at 70 High Park Avenue and 1100 Lansdowne Avenue, which have heritage easement agreements in place.

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SIGNATURE

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ATTACHMENTS

Attachment No. 1A: Location Map and Photograph, 70 High Park Avenue
Attachment No. 1B: Reasons for Designation, 70 High Park Avenue
Attachment No. 2A: Location Map and Photograph, 1100 Lansdowne Avenue
Attachment No. 2B: Reasons for Designation, 1100 Lansdowne Avenue