

90 Harbour Street – Withdrawal of Notice of Intention to Designate, Part IV, Section 29, Ontario Heritage Act

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| Date: | October 31, 2007 |
| To: | Toronto Preservation Board Toronto and East York Community Council |
| From: | Director, Policy and Research, City Planning Division |
| Wards: | Toronto Centre-Rosedale – Ward 28 |
| Reference Number: | |

SUMMARY

This report recommends that City Council withdraw its notice of intention to designate the property at 90 Harbour Street (Workmen’s Compensation Board Building) under Part IV, Section 29 of the Ontario Heritage Act following the receipt of a letter from the Ontario Realty Corporation (ORC) withdrawing its appeal of the proposed designation to the Conservation Review Board.

City Legal and the ORC, owners of the property at 90 Harbour Street, agree that the City has no jurisdiction to impose municipal designation under Part IV, Section 29 of the Ontario Heritage Act on property owned by the provincial government or its agencies. The parties have reached an agreement that the ORC will withdraw its objection to the proposed designation provided that the City then withdraws its notice of intention to designate the site. The site will remain listed on the City’s heritage inventory, enabling staff to monitor any permits affecting its heritage attributes.

RECOMMENDATIONS

City Planning staff recommend that

1. City Council withdraw its notice of intention to designate the property at 90 Harbour Street (Workmen’s Compensation Board Building) under Part IV, Section 29 of the Ontario Heritage Act following the receipt of a letter from the Ontario Realty Corporation withdrawing its appeal of the proposed designation to the Conservation Review Board.

Financial Impact

There are no financial implications resulting from the adoption of this report.

DECISION HISTORY

At its meeting of June 27, 28 and 29, 2006, City Council adopted Clause 20 of Toronto and East York Community Council Report 5 and stated its intention to designate the property at 90 Harbour Street under Part IV, Section 29 of the Ontario Heritage Act. The Ontario Realty Corporation, owners of the property, objected to the proposed designation and the City Clerk referred the matter to the Conservation Review Board according to Section 29(7) of the Ontario Heritage Act.

ISSUE BACKGROUND

The Ontario Realty Corporation (ORC), the agency of the provincial government that owns the property, conducted an assessment of the former Workmen's Compensation Building (1953) and determined that the site does not have provincial significance. The building was occupied by the Ontario Provincial Police as its headquarters from 1975 until 1989, and has been vacant since that time apart from short-term occupancy for film productions.

Following research and evaluation, City staff determined that the property at 90 Harbour Street merited inclusion on the City of Toronto Inventory of Heritage Properties for its cultural heritage value as a good example of a mid 20th century office building that contributes contextually to the character of the Central Waterfront. In a report (March 9, 2006) to the Toronto Preservation Board and Toronto and East York Community Council, staff recommended that City Council include the property on the City's heritage inventory but advised that properties owned by the provincial government and its agencies were no longer eligible for municipal designation under Part IV, Section 29 of the Ontario Heritage Act. Notwithstanding this advice, both the Toronto Preservation Board (on May 18, 2006) and the Toronto and East York Community Council (June 13, 2006) recommended that the property be listed on the City's heritage inventory and designated under Part IV, Section 29 of the Ontario Heritage Act. City Council gave notice of its intention to designate following its meeting of June 27, 28 and 29, 2006.

Following the receipt of a letter of objection from the Ontario Realty Corporation, the City Clerk referred the matter to the Conservation Review Board. The Review Board convened a pre-hearing conference on August 31, 2007 with representatives of the ORC and City staff. City Legal concurs that under the changes to the Ontario Heritage Act (2005), municipalities cannot designate provincially owned properties. Section 26.1(1) of the Ontario Heritage Act states that municipal designation does not apply to property that "is owned by the Crown in right of Ontario or by a prescribed public body" (as described in Section 25.2 (2)(a)).

According to Section 29(15) of the Ontario Heritage Act, an objection to a proposed designation can be withdrawn at any time before the conclusion of a Conservation Review Board hearing by serving notice of withdrawal on the City Clerk and the Review Board. There is no provision in the Ontario Heritage Act for City Council to withdraw its

intention to designate until the objector withdraws the objection. If the objection is withdrawn, City Council may, but does not have to withdraw its objection, unless this was agreed to as part of a settlement.

COMMENTS

A location map (Attachment No. 1) and photographs (Attachment No. 2) are attached. The Reasons for Designation (Attachment No. 3) contain the statement of cultural heritage value and a description of the heritage attributes that are found in the Reasons for Listing.

The property at 90 Harbour Street remains listed on the City of Toronto Inventory of Heritage Properties, enabling staff to monitor any changes to the site and encourage the retention of its heritage attributes. Staff believes that the objection to the proposed designation is based on the issue of jurisdiction and the property has cultural heritage value that merits municipal designation. In the future, if the Ontario Realty Corporation sells the property to an owner in the private sector, City Council would then have the ability to designate the property under Part IV, Section 29 of the Ontario Heritage Act.

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SIGNATURE

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ATTACHMENTS

Attachment No. 1: Location Map
Attachment No. 2: Photographs
Attachment No. 3: Reasons for Listing