



## STAFF REPORT ACTION REQUIRED

### CRB Decision and Designation of 1325, 1351 and 1365 Bayview Avenue

<b>Date:</b>	December 15, 2008
<b>To:</b>	North York Community Council Toronto Preservation Board
<b>From:</b>	Director, Policy and Research, City Planning Division
<b>Wards:</b>	Ward 26 Don Valley West
<b>Reference Number:</b>	

#### **SUMMARY**

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The purpose of this report is to provide Toronto City Council with advice on the decision of the Conservation Review Board (CRB) regarding Council's notice of intention to designate the properties at 1325, 1351 and 1365 Bayview Avenue. This report also provides recommendations to Council regarding the completion of the designation of those properties.

On November 6, 2008, staff of Heritage Preservation Services received the decision of the CRB resulting from the hearing for the appeal to the notice of intention to designate the above mentioned properties. The decision advises that the properties possess sufficient cultural heritage value under the provincial Criteria for Determining Cultural Heritage Value or Interest (Regulation 9/06) of the Ontario Heritage Act to warrant designation, but also makes recommendations about some cultural heritage values identified by the City and on strategies for the protection of the properties.

In consideration of the decision and recommendations of the CRB, this report also provides recommendations on changes to the original "Reasons for Designation" as presented to Council in November of 2007.

## **RECOMMENDATIONS**

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### **The City Planning Division recommends that:**

1. Council pass a by-law to designate the property at 1325 Bayview Avenue under Part IV, Section 29 of the Ontario Heritage Act
2. Council pass a by-law to designate the property at 1351 Bayview Avenue under Part IV, Section 29 of the Ontario Heritage Act
3. Council pass a by-law to designate the property at 1365 Bayview Avenue under Part IV, Section 29 of the Ontario Heritage Act.

### **Financial Impact**

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

### **DECISION HISTORY**

In November of 2007, City Council passed a notice of intention to designate the properties at 1325, 1351 and 1365 Bayview Avenue (properties subject to a notice of intention to designate by council are protected under the Act as though the designation was complete in the event that an appeal or application is submitted before the passage of bills). This notice was appealed on behalf of the owners in December of 2007 and resulted in a hearing before the Conservation Review Board in August of 2008.

Council also refused an Official Plan amendment and zoning bylaw amendment application for these properties in July 2008 and refused an Application to Demolish a Structure Designated under Part IV of the Ontario Heritage Act for the same addresses in October of 2008. All these decisions have been appealed and will be heard at the OMB in 2009.

Council's decision to refuse the demolition of the designated structures has also been appealed to Ontario Superior Court on a claim by the applicant that Council did not respond to the demolition application within the 90 day period stated in the Ontario Heritage Act and therefore refused the application without jurisdiction. A hearing is set for January 9, 2009.

### **ISSUE BACKGROUND**

The Conservation Review Board has issued a decision regarding the designation of the properties at 1325, 1351 and 1365 Bayview Avenue. Council's intention to designate the properties was appealed on behalf of the owner by Context Development Inc. The appeal resulted in a hearing before the CRB that lasted four days in August. The CRB decision is the result of that hearing.

The decision of the CRB is forwarded to City Council as a recommendation and is not binding upon Council's decision. With regard to matters of designation and the recommendations of the CRB, Council's decision is final and will not be subject to further appeals or hearings.

The CRB was careful to address all aspects of the case against the City and analysed the evidence of all witnesses and participants relative to the cultural heritage values of the sites. Each set of values was addressed by the CRB. What follows is a summary of the decision, which is attached as Attachment No.1.

### Design or Physical Value

A property has design value or physical value because it is a rare, unique, representative or early example of a style, type, expression, material or construction method, and/or it displays a high degree of craftsmanship or artistic merit, and/or it demonstrates a high degree of technical or scientific achievement. Heritage Preservation Services stated in its original statement of cultural heritage value that the properties were representative examples of the Georgian Revival style. The City made no claims that the properties possess a high degree of craftsmanship, artistic merit or technical or scientific achievement.

The CRB decided that the properties could be considered period examples of a revival style, but that they are not unique, rare or representative. The CRB also noted that the regulation that contains the criteria for determining cultural heritage value or interest (Regulation 9/06) does not intend that only the best examples of certain architectural types should be protected. As such, protection can also be extended to representative and vernacular types.

The CRB also noted that another apartment complex at 1477 Bayview Avenue, the Garden Court Apartments, is nearby and protected under the Ontario Heritage Act, but makes no mention of the fact that they are designed in a different style. The CRB decided that the properties at 1325, 1351 and 1365 Bayview Avenue should not be designated for their design or physical value.

### Associative or Historical Value

A property has historical value or associative value because it: has direct associations with a theme, event, belief, person, activity, organization or institution that is significant to a community; and/or it yields, or has the potential to yield, information that contributes to an understanding of a community or culture; and/or it demonstrates or reflects the work or ideas of an architect, artist, builder, designer or theorist who is significant to a community.

The City stated in its statement of cultural heritage value that the properties have a strong and significant association with their builder, Henry Howard Talbot, who was also a mayor of the municipality of Leaside at the time these buildings were erected and until 1947. As an important figure in the evolution of the community, he was well known and had significant impact upon its development.

The board agreed that the property possesses cultural heritage value under Regulation 9/06 for its direct association with Henry Howard Talbot and the properties warrant designation for the importance of that association. The CRB did recommend, however, that the statement of cultural heritage value or interest be revised to clarify that these properties are not integral to the founding of the Town of Leaside in 1913.

### Contextual Value

A property has contextual value because it is important in defining, maintaining or supporting the character of an area and/or is physically, functionally, visually or historically linked to its surroundings, and/or is a landmark. In its original statement of cultural heritage value, Heritage Preservation Services asserted that the properties are contextually important to defining, maintaining or supporting the Bayview Avenue context.

The CRB decided that Bayview Avenue has evolved substantially since the construction of these properties and that they no longer support the avenue as they may once have. The CRB also found that, in its opinion, the buildings do not provide a transition from Bayview Avenue to the residential buildings to the side and rear that warrants designation.

### Protection Strategy

The CRB considered whether any distinction could be made between the cultural heritage values of each property and whether the properties could be separated or must be conserved as a grouping for the purposes of best conserving the cultural heritage value or interest. Due to what the CRB referred to as “a lack of sufficient evidence” it asserted it was unable to discern if the properties all had equal cultural heritage value. Accordingly, it offered 4 scenarios for consideration by Council:

- These are three abutting properties being proposed for protection under the Act for identical reasons;
- That the three properties collectively are necessary to document and commemorate any cultural heritage value or interest

- That Glen-Leven holds some “special interest” as stated in the June 13, 2007 staff proposal to protect only this property, and reiterated in the Reasons for Designation
- That Kelvingrove (singly and not grouped with Strathavon) is the preferable building.

## **COMMENTS**

The decisions and recommendations of the CRB provide an opportunity to reconsider the original Reasons for Designation presented to City Council for these properties. Section 29 (14) of the Ontario Heritage Act states that Council shall either designate or withdraw the intention to designate the properties after consideration of the decision by the CRB. Should Council choose to designate, and in consideration of the CRB’s decision, a revised statement of cultural heritage value can be served on the owners of the property and all necessary bodies, which includes revisions based on the feedback of the CRB, however Council’s decision is final and will not be subject to further appeals or hearings.

Following is a response to the issues raised by the CRB for each of the cultural heritage values as identified under Regulation 9/06 and revisions to the statement of cultural heritage value as required. The complete revised Reasons for Designation are attached to this report as Attachments 4 through 6.

### Design or Physical Value

HPS staff does not concur with the CRB decision regarding design or physical value. The City has maintained that these properties are valued as representative examples of the Georgian Revival style and are neither unique nor rare. The CRB also asserts that these buildings can be considered period examples of the style, which seems contrary to their decision that they have no value or interest as representative examples. Further, the CRB decision also mentions that representative styles need not be the best available examples of a style to warrant designation.

Because HPS staff still believe the buildings are representative examples of the style and neither unique nor rare, and because of the apparent contradiction within the CRB’s decision, staff recommend that this cultural heritage value be maintained as expressed in the original reasons for designation.

### Historical or Associative Value

The CRB determined that the historical or associative value of these properties was the most compelling. They agreed that the properties should be designated for the reasons stated by HPS staff, but also recommended that the statement of cultural heritage value be clarified to ensure the properties are not understood to be integral to the founding of the Town of Leaside.

Staff agree with this finding of the CRB and, as such, the historical and associative values presented to City Council in November of 2007 be maintained with one small exception: the last sentence of the first paragraph of the historical or associative values, for each property, have been altered to clarify the history as recommended by the board, and now reads, *Although not integral to the founding of the Town of Leaside in 1913* the Apartments were completed at the outset of World War II. (The added words are italicized for clarity)

### Contextual Value

The CRB found that the three properties had little contextual relationship to Bayview Avenue and do not define, maintain or support the character of the avenue. Staff agrees that the evolution of the avenue has resulted in the properties being somewhat de-contextualized from their original setting on Bayview Avenue, and that the properties may not warrant designation for that reason.

However, staff believes that the complex of buildings play an important transitional role between Bayview Avenue and the residential homes of Leaside. HPS staff are of the opinion that the buildings set the tone for a consistent scale, materials palate and features, such as roof forms, leading into the neighbourhood from Bayview Avenue and serve as a gateway to Leaside.

HPS staff concede that the case for these properties as a gateway and transitional context was not articulated clearly in the original statement of cultural heritage value and that the majority of the contextual value was incorrectly focussed upon Bayview Avenue. Accordingly, the contextual values in the statement of cultural heritage value have been revised to focus upon the gateway and transitional role that these buildings provide leading into the Leaside neighbourhood.

### Attributes

Although the CRB made no recommendations regarding attributes, HPS staff has revised the attributes for all three properties. In all instances the attribute referring to wooden shutters has been changed to read as 'shutters'. No other attributes were changed as a result of the CRB decision.

### Protection Strategy

The CRB was unable to provide advice to Council on the most appropriate strategy for the protection of these properties; protecting one, two or all three properties. Upon further analysis by HPS staff, as set out below, it has been determined that the original City Council intention to designate all three properties is the correct protective strategy and accepts the CRB option that "the three properties collectively are necessary to document and commemorate any cultural heritage value or interest."

The historical and associative values are best illustrated by protecting all three properties because they demonstrate the scale and impact of Talbot's influence and development in Leaside. Further, as a cohesive plan, the protection of all three properties helps the public understand the full intent of Talbot's vision for Bayview Avenue and Leaside and illustrates the sort of development favoured in the interwar period for this area.

In light of the revised contextual values for the properties, it is important to maintain all three groupings of buildings because they contribute to the built form and scale of Leaside and all must remain be protected to best serve as an appropriate gateway and transition into the neighbourhood.

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## **SIGNATURE**

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## **ATTACHMENTS**

Attachment 1: Conservation Review Board Hearing Report: 1325, 1351 and 1365 Bayview Avenue

Attachment 2: Map of properties recommended for designation

Attachment 3: Photos of properties recommended for designation

Attachment 4: Reasons for Designation: 1325 Bayview Avenue

Attachment 5: Reasons for Designation: 1351 Bayview Avenue

Attachment 6: Reasons for Designation: 1365 Bayview Avenue