

**Conservation Review
Board**

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CRB 2007-14

CONSERVATION REVIEW BOARD

RE: THE CORPORATION OF THE CITY OF TORONTO – INTENTION TO DESIGNATE THE PROPERTIES KNOWN AS 1325 BAYVIEW AVENUE (GLENLEVEN APTS.), 1351 BAYVIEW AVENUE (STRATHAVON APTS.), AND 1365 BAYVIEW AVENUE (KELVINGROVE APTS.), IN THE CITY OF TORONTO, ONTARIO

**Su Murdoch, Chair
Terry Moynihan, Member**

This hearing was convened under s.29(8) of the Ontario Heritage Act, R.S.O. 1990, Chapter O.18, amended to 2006 (“Act”), for the purpose of reporting to the Council of the City of Toronto, Ontario (“City”), whether, in the opinion of the Conservation Review Board, on the basis of the evidence it heard, the properties known as 1325, 1351, and 1365 Bayview Avenue should be protected by bylaws under s.29 of the Act.

These three properties front on the east side of Bayview Avenue, north from Sutherland Drive. The current legal description for the three parcels of land is Lots 1-5, 48-51, and 9-20 Plan 2880; and Lots 5-8 and 79 Plan 2122, Borough of East York (Leaside community), now the Municipality of Metropolitan Toronto. The 2008 (current) owner is ADMNS Kelvingrove Investment Corporation.

The Board held one pre-hearing conference on this matter on July 7, 2008. There was no agreed statement of fact at the start of the hearing.

Notice of this hearing was given by the Board, in the manner required under the Act, in the *Toronto Star* of August 15, 2008. A statement of service by the Board’s Case Coordinator with respect to this notice was filed as Exhibit 1.

The hearing day commenced with a site visit of the subject properties at 8:30 a.m. on August 25, 2008, and the hearing convened the same day at 10 a.m. at 655 Bay Street, Toronto, Ontario.

The hearing ended at about 2:00 p.m. on August 28, 2008.

Counsel in Order of Appearance

Mr. Mark Crawford, solicitor, Legal Services, on behalf of the City of Toronto
Mr. Ian J. Lord, solicitor, WeirFoulds LLP, on behalf of ADMNS Kelvingrove Investment Corporation, property owner

Witnesses In Order of Appearance

Ms Kathryn H. Anderson
Mr. Phillip H. Carter
Mr. Howard E. Cohen
Mr. Peter F. Smith

Members of the Public In Order of Appearance

Mr. Brian Athey, Leaside Property Owners Association
Ms Patricia Stephenson, Kelvingrove/Glen-Leven Tenants Association

Others in Attendance

Mr. Paul Chronis, Planner, WeirFoulds LLP (on behalf of the Owner/Objector)

Jurisdiction of the Board

All parties were reminded that the jurisdiction of the Board is to hear evidence within the framework of Ontario Heritage Act Regulation 9/06 as criteria for determining the cultural heritage value or interest of a property.

The Board does not address issues of demolition or selective demolition, as these are the jurisdiction of Council and, on appeal, the Ontario Municipal Board.

The Board does not address issues of the costs of physical maintenance or repairs, as these are outside the evaluation of cultural heritage value or interest.

The Board does not address any planning permit applications or issues that are under the jurisdiction of the Planning Act. These are between the applicant and the municipality. In this case, the Board was informed that the subject properties were being proposed for redevelopment and that notice had been given of a pending application for a demolition permit.

Evidence on any of these topics, notably on the current Planning Act issues, will only be heard if it gives context to the discussion of cultural heritage value or interest and any heritage attributes or features that may support that value or interest.

As is the custom of the Board at the start of the hearing, members of the public in attendance were asked if they intended to participate by making a statement later in the proceedings. There were two respondents, Mr. Brian Athey and Ms Patricia Stephenson.

Property Description

Each property contains a complex of 2-storey, apartment-type dwellings. No. 1325 Bayview Avenue (Glen-Leven Apts.) is the largest parcel and spans between Sutherland Drive at the south and Airdrie Road at the north. At the north side of Airdrie Road is 1351 Bayview Avenue (Strathavon Apts.). Abutting on the north of 1351 is 1365 Bayview Avenue (Kelvingrove Apts.) The Strathavon and Kelvingrove complexes are sometimes collectively referred to as "Kelvingrove."

All principal facades front on the east side of Bayview Avenue and view the Mount Pleasant Cemetery on the west side of Bayview. Glen-Leven has a secondary south orientation to Sutherland Drive and a secondary north orientation to Airdrie Road; Strathavon has a secondary south orientation to Airdrie Road. Each complex has automobile garages along the east perimeter. Flanking the north side of Kelvingrove Apts. is a laneway said to have been the link from Bayview Avenue to the William Lea residence (demolished) to the east. The properties are within that part of the City of Toronto known historically as Leaside.

Case for the City of Toronto

Procedural Matter

Mr. Crawford filed Exhibits 3A and 3B noting that the registered owner of the subject properties is identified on title as 3108597 Canada Inc. It was subsequently confirmed that the name of that corporation was changed on January 27, 1999, to ADMNS Kelvingrove Investment Corporation (Exhibit 4), which is recognized as the current owner (Exhibit 4).

Mr. Crawford began by explaining that the position of the City is that each of the subject properties meets the criteria for municipal designation in all categories of Regulation 9/06: Design or Physical, Historical or Associative, and Contextual. The City's proposal is to protect each property by a separate bylaw under s.29 of the Act. The principal heritage attributes are considered to be the three apartment complexes comprising 1365 Bayview Avenue (Kelvingrove, one 3-part building), 1351 Bayview Avenue (Strathavon, two buildings), and 1325 Bayview Avenue (Glen-Leven, five buildings). The garages on each property are not to be included as heritage attributes in the proposed bylaws.

The position of the City is that only the issue of whether or not these properties hold cultural heritage value or interest is relevant to the proceedings of the Board. Matters of the timing of the designation proposal, the process by which cultural heritage evaluation is conducted by the City, Planning Act issues, condition, and usability are not relevant. Mr. Crawford filed Exhibits 2, 2A, 5, and 6.

Witness – Kathryn H. Anderson

Ms Anderson was sworn as an expert witness in Toronto's architectural history.

Ms Anderson was identified as a Preservation Officer, Heritage Preservation Services, Policy and Research, City Planning Division, City of Toronto. Her Curriculum Vitae (Exhibit 2, Tab 1) lists her relevant educational credentials and experience.

Ms Anderson referenced the City of Toronto Document Book (Exhibit 2), Tab 2: Venice Charter; Tab 3: Appleton Charter; Tab 4: 2005 Ontario Provincial Policy Statement; Tab 5: Eight Guiding Principles in the Conservation of Built Heritage Properties; and Tab 6: Toronto Official Plan, 3.1.5 Heritage Resources, as a demonstration of the commitment internationally, provincially, and at the City of Toronto to the conservation of cultural heritage resources.

Listing on the City of Toronto Inventory/Register of Heritage Properties

Ms Anderson explained that the City commenced an inventory of heritage properties in 1973 and since 2005 has considered the City of Toronto Inventory of Heritage Properties to be the Register, as defined by the Act. Exhibit 2, Tab 7, is the extract of the Inventory that indicates the subject properties were "listed" on October 23, 2007.

Ms Anderson outlined that the process for listing a property on the Inventory and for considering a property as a candidate for designation under s.29 of the Act, typically begins with a request from the public. In this case, a January 2007 email to the then manager of Heritage Preservation Services (Brian Gallagher) from a director with the Leaside Property Owners Association (Agnes Vermes), inquiring about having "1335 [sic] to 1365" Bayview Avenue listed on the Inventory, prompted the addition of these properties to the "commence assessment list" of Heritage Preservation Services (Exhibit 6).

Ms Anderson outlined that she personally undertakes the property research by conducting a site visit and applying a research checklist of standard archival and secondary sources (Exhibit 2, Tab 10). In this case, she examined other buildings in the area, including other apartment complexes. She is aware that Garden Court Apartments at 1477 Bayview Avenue, just north of the subject site, has been protected under s.29 of the Act since 1987. She has previously researched other Leaside community properties.

Once the sources on the research checklist are consulted, Ms Anderson forwards her findings with a recommendation to the Heritage Preservation Services management team. No separate standalone report is produced as the findings and recommendation are integrated directly into a Staff Report as “Reasons for Listing” and, if applicable, “Reasons for Designation.” The terminology of Regulation 9/06 and the Act (statement of cultural heritage value or interest and description of heritage attributes) is used.

The Staff Report is sent to the Director of Policy and Research for review and signature, and then forwarded to the Toronto Preservation Board. That Board is the municipal heritage committee for the City, as defined by the Act. The endorsement and/or recommendation of the Toronto Preservation Board is sent for comment to the appropriate of four Community Councils, in this case, the North York Community Council. From there, a recommendation is sent to City Council for a final decision.

Ms Anderson explained that the research and cultural heritage evaluation process for listing on the Inventory/Register is the same as undertaken for the protection of a property under s.29 of the Act (municipal designation). Typically, the findings and recommendation prepared for listing are used, with minor formatting revisions, for the designation bylaw.

In this case, Ms Anderson concluded that the properties warranted listing on the Inventory and gave the following reasons:

Historical or Associative Value

Based on her research, it is Ms Anderson’s conclusion that the three apartment complexes were erected on the site between 1938 and 1940, during which time Henry Howard Talbot was the property owner, a local builder/developer, and mayor of Leaside.

Ms Anderson reviewed the research process undertaken by her by referencing the documentation in Exhibit 2, Tab 10. She explained some of the challenges in that the records for Leaside dating before 1939 are destroyed, the 1940 and 1941 tax assessment rolls are missing, and the City Building Department has no records for the period of construction. Her conclusions about the significance of the subject properties are based on several findings, including:

- The council minutes of the Town of Leaside record that in May and June 1938 sewers and watermains were constructed in the area, confirming this was a period of local development.
- By-law No. 557 (amending By-law No. 401), Aug 1938, references the construction of apartment buildings at this location, although there is some discrepancy in the legal description.
- Henry Howard Talbot acquired the lots in 1938-1939.
- A photograph depicting Strathavon Apts. is dated July 1939.

- A 1939 Toronto directory lists Strathavon and “Kelvin Grove” Apartments in the subject location; and a 1940 directory lists Strathavon, Kelvin Grove, and Glen-Leven Apts.
- Biographical information about H.H. Talbot that includes a reference to the subject apartments.

The City describes its position on the historical or associative value of each property in the following extracts of the Notices of Intention to Designate:

1325 BAYVIEW AVENUE

DESCRIPTION

Located on the east side of Bayview Avenue on property extending from Sutherland Drive (south) to Airdrie Road (north), the apartment complex known as the Glen-Leven Apartments was completed by 1940 when it was first documented in the city directories.

HISTORICAL OR ASSOCIATIVE VALUE

With its position along Bayview Avenue between Sutherland Drive and Airdrie Road, the Glen-Leven Apartments are associated with the evolution of Leaside as the community matured after World War I. In 1912, the directors of the Canadian Northern Railway commissioned the noted Montreal landscape architect Frederick G. Todd to lay out a model town on a 1000-acre tract southeast of Bayview Avenue and Eglinton Avenue East. The property, formerly owned by members of the Lea family, was the site of a Canadian Pacific Railway (CPR) junction named "Leaside". While Leaside was incorporated as a municipality in 1913, the development of its distinct residential and industrial sectors was largely delayed by World War I. During the conflict, the federal government established the Leaside Airfield for the training of Royal Flying Corps pilots, which brought recognition to the locality as the terminus of the first airmail flight in Canada in 1918. Following the war, access to Leaside was improved with the completion of the Leaside Bridge across the Don River and the Millwood Road CPR Underpass, which attracted industry and housing to the area. The Glen-Leven Apartments were completed at the outset of World War II.

The Glen-Leven Apartments are historically associated with Howard Talbot, a contractor and politician linked to the development of Leaside. Talbot established a construction business in the 1920s and, by the close of the decade, began assembling land in Leaside. His projects ranged from detached residences and duplexes to low-rise apartment buildings. According to the book, *Leaside* (Pitfield, 1999, 166), the apartment complexes on Bayview Avenue represented his most ambitious venture in Leaside. After serving as a municipal councillor, Talbot was elected as Mayor of Leaside in 1938, retaining the position until 1947. During Talbot's tenure, he was responsible for bringing new industries to the community, and initiated the construction of Leaside's first permanent municipal building (completed in 1949) at the corner of McRae Drive and Randolph Avenue.

1351 BAYVIEW AVENUE

DESCRIPTION

Located on the northeast corner of Bayview Avenue and Airdrie Road, the Strathavon Apartments were in place by July 1939 according to a photograph in the collection of the Toronto Reference Library.

HISTORICAL OR ASSOCIATIVE VALUE

[Identical description to 1325 Bayview Avenue.]

1365 BAYVIEW AVENUE

DESCRIPTION

Located on the east side of Bayview south of McRae Drive, the Kelvingrove Apartments were

first recorded in the city directories in 1939.

HISTORICAL OR ASSOCIATIVE VALUE

[Identical description to 1325 Bayview Ave.]

Procedural Matter

Mr. Lord requested the printed extracts of the secondary source materials being referenced by Ms Anderson in her testimony on design or physical value. As the Board had earlier identified the need to clarify the ownership on title for the property, the hearing was adjourned at 2:10 p.m. and scheduled to resume the next day at 10:00 a.m.

Design or Physical Value

Mr. Crawford provided title pages and extracts of the secondary source materials (Exhibit 5) to be referenced by Ms Anderson during her testimony on design or physical value.

Ms Anderson explained that she used the standard published sources referenced in Exhibit 5 to inform her about the architectural tradition of Colonial and Georgian Revival styles. She concluded that the subject buildings are a 20th century Revival style, specifically Georgian Revival as it is described in several texts. She stated that Mark Fram in his work, *Well-Preserved, the Ontario Heritage Foundation's Manual of Principles and Practice for Architectural Conservation* (Exhibit 5, p.18), best describes the style as a “self-conscious but inaccurate emulation of earlier styles.” *A History of Canadian Architecture*, Volume 2, by Harold Kalman (Exhibit 5, p.21) states that Architecture Between the Wars as “the free use of historical styles in the search for a desired effect - or a wished for fantasy - was evident in domestic architecture.” Ms Anderson referred the Board to several images, notably Exhibit 5, p.7, Figure 16-4 of *Ontario Architecture, A Guide to Styles and Building Terms 1784 to the Present* by John Blumenson, which illustrates a portico with a “Regency-styled tent or awning roof” and Figure 16-7 “a unique adaptation of the Venetian three-part window” which are similar in design to those seen on the subject buildings.

Exhibit 5, p.14, is an extract of *Toronto Observed, Its Architecture, Patrons, and History* by William Denby and William Kilbourn, which contains a description of the Garden Court Apartments at 1477 Bayview Avenue. (This complex was designed by architects Forsey Page & Steele and erected in 1939-1942.) Ms Anderson cited the paragraphs explaining that the economic depression of the 1930s moved Toronto toward apartment living. She quoted: “But architects were challenged to create apartments whose plan and surroundings would satisfy the precise image of ‘home’ cherished by the middle classes.” She considers the subject apartments to be part of this 1930s movement toward apartment living and away from the less affordable single detached house.

The City describes its position on the design or physical value of each property in the following extracts of the Notices of Intention to Designate:

1325 BAYVIEW AVENUE

The Glen-Leven Apartments have design value as a well-crafted example of an apartment complex from the World War II era that is distinguished by its low scale, placement on the site, and Georgian Revival features. Based on late 18th and early 19th century English precedents, the Georgian Revival style (also known as Colonial Revival) was popular during the World War I period and afterward, where residential designs featured symmetry, decorative brickwork, and refined Classical elements.

The Glen-Leven Apartments incorporate the U-shaped plan popularized for apartment

complexes since the 1920s. It is part of a group of three neighbouring apartment complexes at #1325, 1351 and 1365 Bayview that feature different configurations, but share a similar scale and architectural appearance. The Glen-Leven Apartments, in particular, display a sophisticated approach to land use, with an axial design that organizes the components around the U-shaped complex at the centre, with the entrances either overlooking the adjacent streets or facing the central courtyard.

1351 BAYVIEW AVENUE

[Identical preamble description to 1325 Bayview Ave.]

The Strathavon Apartments are comprised of two buildings that anchor a corner lot. They are part of a group of three neighbouring apartment complexes at #1325, 1351 and 1365 Bayview that feature different configurations, but share a similar scale and architectural appearance.

1365 BAYVIEW AVENUE

[Identical preamble description to 1325 Bayview Ave.]

The Kelvingrove Apartments incorporate the U-shaped plan popularized for apartment complexes since the 1920s. It is part of a group of three neighbouring apartment complexes at #1325, 1351 and 1365 Bayview that feature different configurations, but share a similar scale and architectural appearance.

Contextual Value

Ms Anderson referenced the statements of contextual value for each property in the Notices of Intention to Designate:

1325 BAYVIEW AVENUE

Extending along the east side of Bayview Avenue between Sutherland Drive and McRae Drive, the Glen-Leven Apartments are visually prominent on the street opposite Mount Pleasant Cemetery. With the neighbouring Strathavon Apartments (#1351 Bayview) and the Kelvingrove Apartments (#1365 Bayview) to the north, the Glen-Leven Apartments form part of the series of low-scale multi-unit residential structures that define the character of Bayview Avenue near the south end of Leaside. North of McRae Drive, the property at 1477 Bayview Avenue containing the Garden Court Apartments (completed 1941) is designated under Part IV of the Ontario Heritage Act.

1351 BAYVIEW AVENUE

Anchoring the northeast corner of Bayview Avenue and Airdrie Road, the Strathavon Apartments are visually prominent on the street opposite Mount Pleasant Cemetery. With the neighbouring Glen-Leven Apartments (#1325 Bayview) to the south and the Kelvingrove Apartments (#1365 Bayview) to the north, the Strathavon Apartments form part of the series of low-scale multi-unit residential structures that define that character of Bayview Avenue near the south end of Leaside. North of McRae Drive, the property at 1477 Bayview Avenue containing the Garden Court Apartments (completed 1941) is designated under Part IV of the Ontario Heritage Act.

1365 BAYVIEW AVENUE

Placed along the east side of Bayview Avenue south of McRae Drive, the Kelvingrove Apartments are visually prominent on the street opposite Mount Pleasant Cemetery. With the neighbouring Glen-Leven Apartments (#1325 Bayview) and Strathavon Apartments (#1351 Bayview), the Kelvingrove Apartments are part of the series of low-scale multi-unit residential structures that define that character of Bayview Avenue near the south end of Leaside. North of McRae Drive, the property at 1477 Bayview Avenue containing the Garden Court Apartments (completed 1941) is designated under Part IV of the Ontario Heritage Act.

Designation Proposal

Ms Anderson explained that the City's interest in these properties began with a January 2007 email from Agnes Vermes. A February 26 email from Ms Vermes (Exhibit 6, p.7) reiterates her position in having the three properties listed and notes an interest in having "the homes on the nearby streets as a heritage district." A March 12, 2007 request for listing and designating the "Kelvingrove and Glenleven properties" was received by Preservation Services from Brian Athey, president of the Leaside Property Owners Association ("Kelvingrove" meaning Kelvingrove and Strathavon).

Ms Anderson stated that the June 13, 2007 Staff Report from the Director, Policy and Research, City Planning Division (Exhibit 2, Tab 12) is the standard format for delineating her research findings and the recommendation of Preservation Services. In this report, the Planning Division recommends that City Council include the three properties on the Inventory of Heritage Properties and that 1325 Bayview Avenue (Glen-Leven) be proposed for protection under s.29 of the Act. Ms Anderson's initial recommendation was for listing only for the three properties. Page 2 of the Staff Report states: "The inclusion of the properties on the heritage inventory would enable staff to monitor any changes to the buildings and encourage the retention of their heritage attributes. The Glen-Leven Apartments at 1325 Bayview Avenue are of special interest because of the complex's layout and detailing, and the property meets the criteria for designation under Part IV of the Ontario Heritage Act." Ms Anderson stated that, in her opinion, Glen-Leven was chosen for designation as it is the "most at risk" and has the largest landmass that could be proposed for redevelopment.

A report dated September 13, 2007 from Toronto Preservation Board to the North York Community Council (Exhibit 2, Tab 13) recommends listing the three properties on the Inventory and designating the three properties under the Act, not just Glen-Leven.

Item NY9.4 of the North York Community Council minutes of October 2, 2007, includes Committee Recommendations endorsing the listing and designation of the three properties (Exhibit 2, Tab 14).

On October 23, 2007, Council of the City of Toronto adopted the North York Community Council motions (NY9.4) without amendment (Exhibit 2, Tab 15).

Mr. Crawford asked Ms Anderson to respond to each point listed in the December 7, 2007 letter of objection from Ian J. Lord on behalf of the property owner, ADMNS Kelvingrove Investment Corp. (Exhibit 2, Tab 17). She reiterated her testimony to refute the statements in this letter and declined to comment on several points stating these are planning matters and outside the jurisdiction of these proceedings.

Cross-examination of the Witness

Mr. Lord began his cross-examination by referencing the Witness Statement (Exhibit 7) and asking Ms Anderson to confirm she was the sole researcher, personally conducted the site visits, and authored the relevant portions of the Staff Report of June 13, 2007. Ms Anderson concurred, noting that her recommendation was for listing only, and added that she did not attend any staff meetings beyond the initial submission of her findings and recommendation. She did not meet with the property owner or their agent and did not attend any public meetings at which development proposals for the properties were discussed, or any meetings of the Leaside Property Owners Association. She had no other involvements with the properties beyond her in-house duties as Preservation Officer.

Mr. Lord submitted Exhibit 8, Appellant's Document Brief, and Exhibit 9, Appellant's Supplementary Document Brief.

Ms Anderson was asked to clarify that the five apartment buildings of Glen-Leven are to be protected and not the garages. Ms Anderson agreed and added that the City anticipates reducing the size of the real property actually being governed by the designation bylaw(s). The final areas of interest will be surveyed and described by the City.

Mr. Lord queried how properties are prioritized for “assessment” (research and cultural heritage evaluation). The witness explained that if a request for listing or designation is accompanied by a report and information, it is considered serious. A building “threatened with demolition” will become a priority. It is the Preservation Services management team that decides if a property is to be assessed, and assigns her the task of research and cultural heritage evaluation. Currently, Ms Anderson is the only staff member undertaking these heritage assessments. She started the research for the subject properties in March 2007 and completed the evaluation for the June 13, 2007 Staff Report presented to Toronto Preservation Board.

When asked if additional research was undertaken when Glen-Leven and then the Kelvingrove and Strathavon properties were recommended for designation, as opposed to only listing, Ms Anderson replied in the negative.

Mr. Lord continued with cross-examination raising such issues as whether the City has a “rating system” for properties. Ms Anderson responded that since Regulation 9/06 was passed in 2006, it has been used exclusively.

When asked if there is any “proof” that H.H. Talbot was the builder of the subject buildings, the witness stated that he was the owner during the period of construction, was a Leaside builder/contractor, and others have attributed the apartment development to him.

Considerable time was spent in reviewing the chronology of events, research methodology, interpretation of the research materials, and reporting structure practiced by the City. It was determined that the products of Ms Anderson’s research are a file of copies of primary and secondary source documents available for public viewing, an internal administrative file, and a recommendation on whether the property should be listed and, potentially, protected under the Act. The next step is the preparation of “Reasons for Listing” and “Reasons for Designation” that are patterned after the statement of cultural heritage value or interest and description of heritage attributes required by the Act for a designation bylaw.

This concluded the case for the City.

Case for the Objector

Witness – Phillip H. Carter

Mr. Carter was sworn as an expert witness as an architect with expertise in heritage buildings and properties.

Mr. Carter was identified as the principal in the firm Phillip H. Carter Architect. His Curriculum Vitae (Exhibit 12) outlines his extensive experience in heritage conservation as a practitioner and educator. In accepting Mr. Carter as an expert witness, the Board reiterated that the role of an expert witness is to provide evidence that is objective and based on professional knowledge and experience.

Mr. Carter explained that he was retained in November 2007 by Context Development Inc., which is the agent for the owner of the subject properties. His task was to review the City’s proposal for designation under s.29 of the Act. He conducted four visits to the site and

neighbourhood with a colleague, Paul Oberst. Other apartment complexes were viewed including Garden Court Apartments to the north, Crestview Apartments (constructed in 1951), and other sites not in Leaside but on the City's Inventory, such as Spruce Court and Riverdale Court (1912 to 1920) and Regent's Park (1949). City Council minutes were reviewed, as were the Official Plan, Provincial Policy Statement, Ministry of Culture Tool-Kit, and Regulation 9/06. Books on Georgian Revival were used to supplement his knowledge of this architectural style. Historical writings on the history of the community of Leaside were consulted and he reviewed the City's evidence materials.

Mr. Carter stated that he returned to "first principles," as if he were drafting the designation report. He did not do a property title search and accepted the City's historical or associative research as given. He referenced the Board to sections of his report, "Assessment of Heritage Value or Interest, 1325-1365 Bayview Avenue Toronto, February 4, 2008" (Exhibit 13) and elaborated under the headings of Regulation 9/06, as follows:

Design or Physical

Mr. Carter contends that the topic of later vernacular styles, such as 20th century Revivals, are not handled well by the authors of publications on architectural styles in Canada and Ontario. He notes that the publications cited in Exhibit 5 do not uniformly show good examples of the components of Revival styles. He provided the Board with a visual display of examples of historic and Revival periods of Colonial and Georgian styles and compared these to the subject buildings (Exhibit 14).

In describing the subject buildings, Mr. Carter labelled them "Neo-Colonial Revival" not Georgian Revival. They exhibit a mixture of "applied traditional style elements" drawing from the Georgian and Regency traditions. The entrance details are faux; the quasi-trellis at Glen-Leven is made of 2x2s with a scallop fascia that likely dates to the 1950s; the pediments are flat, made of plywood, and "clumsy"; and the doors are steel replacements.

Mr. Carter described the brickwork as vernacular and contemporary, with a standard bond. The (corner) quoins are decorative not structural. The header course over each window opening does not visually relate to the actual opening or window sash. The use of steel beam construction has removed the need for the structural strength traditionally provided by the header course. The window openings are (too) tight to the underside of the soffit. The sashes are replacements with plastic, snap-in muntins; the shutters are plastic and inoperable.

Overall, Mr. Carter is of the opinion that the builder has "applied makeup to a fairly ordinary building." It is a "pastiche" style with "entirely standard construction" and at best is "representative of ordinary vernacular construction." These buildings are not anything that could be described as "rare or unique." There is no artistic merit, high degree of craftsmanship, nor technical or scientific achievement exhibited. The type expression is that of a low-rise apartment grouping around a courtyard. This type has been common in Toronto for a century and there are many surviving examples, including the outstanding Garden Court Apartments at 1477 Bayview. When compared to other apartment complexes in Toronto, the subject properties are below standard and "unexceptional."

Historical or Associative

In Mr. Carter's opinion, the association of the subject site with the early development of Leaside could be argued for all the buildings in the area. The properties have no unique aspects involving "information that contributes to the understanding of the community or its culture." He does agree there may be an association with H.H. Talbot. He was a prominent local citizen, builder, and politician, and few know that he was the founder of the Leaside Baseball Association. In Mr. Carter's opinion, Talbot should be recognized as mayor of Leaside, not as a builder, especially given that these are not compelling buildings. Howard Talbot Park on

Eglinton Avenue already commemorates his contributions to the community. No known architect or landscape professional have been attributed to these buildings.

Contextual

Mr. Carter explained that east of Bayview Avenue has a predominance of Tudor and Georgian Revival style dwellings. Sloped roofs and red brick dominate much of the housing in the area. This part of Leaside is relatively unchanged since construction.

Bayview Avenue is an arterial road that “turns its back on Leaside” and separates the commercial from the residential built form and use. The street has a variety of styles and heights. Exhibit 14 plots the modern buildings and structures over two storeys in height along Bayview in the vicinity of the subject properties.

Mr. Carter contends that the subject properties do not define, support, or maintain the character of this area, which does not have a well-defined character. The only landmark in the area is Mount Pleasant Cemetery. The subject buildings relate physically and visually to the forms and materials of the residential districts behind but do not relate to the predominantly modern buildings on Bayview Avenue. They relate functionally, but not historically or architecturally, to the apartment use between Moore Avenue and McRae Drive.

In closing, the witness reiterated his testimony by referencing the written conclusions in his report (Exhibit 13, p.14) and confirmed that all his comments apply equally to the buildings individually and collectively.

Cross-examination of the Witness

Mr. Crawford queried if Mr. Carter relied on the City’s research regarding the historical or associative information. The witness stated he had no reason to question the research. He only looks at the architecture as he finds “that aspect, i.e., Talbot, Leaside history, etc., germane to the analysis of the architecture.” He would call Talbot the “developer” and it is likely that other works by Talbot survive in Leaside. Sources such as the Toronto Construction Record and contract documents may provide further information.

In response to questioning by Mr. Crawford, the witness described the 190-metre frontage of the properties as “visually prominent on Bayview and from the cemetery.” The apartments were built before other (existing) buildings on this section of Bayview were constructed and share elements of style and materials with other Leaside buildings. They present a transition between the Bayview Avenue commercial frontages and the residential development behind. The garages and side flanking buildings have some residential traits that tie into the residential form of the side streets and behind, with the garages forming the buffer.

Mr. Carter maintains that a building should have a “significant presence of style elements under the style label.” Regarding Exhibit 5, p.4 (Blumenson), he considers the author to be describing Revival styles as being “distinguished from the historic prototypes by the use of modern materials, a different scale or proportional system and a mixture of old and new elements” and that this is a description of a “situation,” not an important style.

Witness – Howard E. Cohen

Mr. Cohen was sworn as a witness.

Procedural Matter

It was established that Mr. Cohen is an architect and that his firm, Context Development Inc., was retained in late 2006 by ADMS Kelvingrove Investment Corporation as agent/project

manager for the Bayview Avenue site. After discussion regarding the anticipated evidence of this witness (Witness Statement, Exhibit 15) and an apprehension of bias expressed by Mr. Crawford, Mr. Cohen was not admitted as an expert witness in his fields of architecture and planning. The Board confined his role to the chronology of activity between Context Development Inc. and the City on heritage matters. No evidence on the proposed redevelopment of the property would be permitted.

Mr. Cohen explained that he is considered the “vanguard” in the heritage preservation movement in Toronto in the 1970s. He referred to the Chronology (Exhibit 15) of the unfolding of the proposed development for the subject site between November 1, 2006, when he met with City staff regarding the replacement of this rental housing, and July 18, 2008, when his client gave notice of the intention to demolish a listed building. He stated that between November 1, 2006, and June 2007, Context Development Inc. was not informed by City staff of any interest in the cultural heritage value of these properties. In Mr. Cohen’s opinion, the “heritage issue was trumped up as a weapon as other planning tools would fail.”

Witness – Peter F. Smith

Mr. Smith was sworn as a witness.

Mr. Smith is a consulting landuse planner and partner with Bousfields Inc. He was retained by Context Development Inc. in late December 2007 with respect to the proposed Bayview Avenue development. His witness statement (Exhibit 16) indicates some involvement with cultural heritage properties.

Procedural Matter

The Board cautioned Mr. Smith that the jurisdiction of the Board does not extend to matters under the Planning Act and to restrict his evidence to cultural heritage value.

Mr. Smith commented that the Provincial Policy Statement of the Planning Act is a “holistic document.” Regulation 9/06 has an “element of judgement embedded and offers a range of options.” As heritage and planning have been intertwined since 2005 (with the Ontario Heritage Act amendments and the Provincial Policy Statement strengthened in regard to cultural heritage resources), “heritage can be used as a weapon.” He referenced the Board to Policy 4.3 of the PPS (“This Provincial Policy Statement shall be read in its entirety and all relevant policies are to be applied to each situation.”) and suggested that the Board weigh this against 2.6 *Cultural Heritage and Archaeology* when considering the subject properties.

The witness referenced the Board to Exhibit 9, Tab 2, p.68 (Toronto Official Plan), which states “The Plan should be read as a whole to understand its comprehensive and integrative intents as a policy framework for priority setting and decision making.” Tab 6 contains the Bousfields Inc. “Planning Rationale, 1325, 1351 and 1365 Bayview Avenue” as a record of all the planning and heritage policies that relate to the site. He further referenced Exhibit 8, Tab 13, p.91, the April 2008 newsletter to Leaside residents from Councillor John Parker re the “Talbot Apartments - Round II” which describes the status of the heritage *and* planning matters for this site.

Cross-examination of the Witness

Mr. Crawford confirmed with Mr. Smith that the Provincial Policy Statement is under the Planning Act and suggested this is a two step process: first to determine cultural heritage value under the Ontario Heritage Act; and second to involve the overall planning process under the Planning Act.

This concluded the case for the Objector

Members of the Public

Mr. Brian Athey

Mr. Athey was sworn as a witness.

Mr. Athey is President of the Leaside Property Owners Association Inc. and was at the hearing to represent the interests of its members. The Association was founded in 1913 when Leaside was founded. He considers Leaside to be a well-planned model town with nearly all original building stock extant (with some additions and upgrades). H.H. Talbot oversaw much of the growth and the first development in 1928. Leaside became part of the Borough of East York in 1967. In the opinion of Mr. Athey and the Association, the subject properties form a gateway into Leaside. The existing structures anchor each corner, date to the balance of the properties in Leaside, and are collectively an important heritage asset in the community. The apartments form two blocks of buildings equal in quality and character.

Mr. Athey explained that interest in the heritage preservation of Leaside is long-standing. He provided the Board with a February 2003 document developed by the City of Toronto Urban Development Services, City Planning Division, in consultation with The Leaside Character Preservation Advisory Committee, titled *Residential Character Preservation Guidelines for House Renovations, Additions & In-Fill Development in the Community of Leaside.* In 2006, a subcommittee was formed to investigate the feasibility of establishing a Leaside Heritage Conservation District under Part 5 of the Act.

It was stated by Mr. Athey that at the community meetings held by Context Development Inc., those in attendance were told that there would be “demolition and redevelopment” of the site with potentially a seven to eight storey structure being constructed.

Ms Patricia Stephenson

Ms Stephenson was sworn as a witness.

Ms Stephenson is a resident of Kelvingrove Apartments and a member of the Kelvingrove/Glen-Leven Tenants Association. In her opinion, these properties meet the requirements of Regulation 9/06. She refers to the site as the “Talbot Apartments” and contends this is the local, traditional name.

Regarding design or physical value, Ms Stephenson contends that the sophisticated layout of the apartments as a whole is such that no one experiences the buildings separately. The Kelvingrove (meaning Kelvingrove and Strathavon) and Glen-Leven complexes have unique features that are varied and complimentary. Glen-Leven’s central garden creates a cloistered interior, while Kelvingrove shares its garden with the streetscape. They are complimentary, polar opposites. The whole site has a “beauty, strength, and presence.” The flanking buildings are “less” architecturally, but the 3-part composition is well designed. In Ms Stephenson’s opinion, the siting is better designed than the Garden Court Apts. Overall, the whole site has artistic merit and is rare or unique in the context of Leaside.

Regarding contextual value, Ms Stephenson stated that Mount Pleasant Cemetery is important to the “body” of Leaside and that the apartments emphasize the location of the cemetery. This location is the gateway to Leaside, and Bayview Avenue is Leaside’s historic mainstreet. The buildings are not just a Bayview feature as they also front onto Airdrie and Sutherland.

Regarding historical or associative value, the laneway abutting the north side of the 1365 Bayview was the historic access to the William Lea estate to the east (demolished). The Lea family founded the area.

Ms Stephenson considers Kelvingrove to be the most visible to the street, “putting heritage on the street for the public.” It is the “preferable building.” Collectively the “Talbot Apartments” mark a locality and form a physical and cultural heritage landmark. Leaside’s “landmarks” are its buildings.

Summation of the Case for the Objector

Mr. Lord began by establishing that the Kelvingrove site is 1.73 acres; Strathavon 1.38 acres, and Glen-Leven 3.12 acres. He stated that designation “has an impact on owners and neighbours” and queried whether, in this case, “the purpose of the protection is to conserve a heritage asset or some other purpose.” He cautioned the Board on the “draconian effect of listing and designation” and that the Board must maintain the integrity of the Act.

Mr. Lord continued by stating that the City did not provide a comprehensive cultural heritage evaluation report, only a planning report with an attachment. He contends that this is not the type of report contemplated by the Act. There is no evaluation, just conclusions and statements.

The Board was reminded that Ms Anderson’s recommendation to the Preservation Services management team was to list, not designate, the three properties. The management team recommended the designation of the Glen-Leven site and the next level of authority, Toronto Preservation Board, extended this to the designation of all properties. Mr. Lord finds it incongruous that a description intended for listing can equate the description used for a designation bylaw. He also questioned the validity of having nearly identical Reasons for Designation for each property.

Regarding design or physical value, the City stated that this is “an example of Georgian Revival style.” Mr. Lord contends a property cannot be preserved on the basis of a style label. The City also did not give an evidentiary base to support the conclusion that the buildings are “well-crafted.” Mr. Carter gave evidence that the City’s contentions are “incorrect or irrelevant.” The City did not give any comparatives to similar apartment complex sites and that comparison is important in discussing relative design or physical values. For example, the subject properties should be compared to the designated Garden Court Apartments property.

Regarding historical or associative value, there is no factual support, only secondary or third removed inferences, that H.H. Talbot was the builder/contractor. Mr. Lord demonstrated errors in the transposition of the wording from the documentary source, notably the description that the subject development was Talbot’s “largest,” not the “most ambitious” project as transposed from the source to the Reasons for Designation. The construction date is an inference. Talbot as mayor has already been commemorated with Howard Talbot Park.

Mr. Lord contends there is no historic record that these buildings have significance. No architect or landscape professional have been attributed the work. In reference to the content of the Reasons for Designation, there is no link between these buildings and the Lea family (the former laneway is not a characteristic of this property), the Canadian Pacific Railway lands, or the Royal Flying Corps, yet these are mentioned. The City is claiming that the site meets Regulation 9/06 by “drawing inferences” and not stating facts. As a principle, if the information does not specifically relate to the property, it should not be there. The historical details of Leaside do not warrant connectivity to the apartment sites.

Regarding contextual value, Bayview Avenue is a high volume, four-lane, arterial road. As there are an estimated thirty entrances into Leaside, this site should not be considered a gateway.

With respect to the description of heritage attributes proposed by the City, Mr. Lord contends

that all relate to design or physical value. The statement of cultural heritage value and list of heritage attributes must be accurate for the Act and for the Building Code provisions for heritage properties.

Mr. Lord suggests there is a flaw in the way in which the City separated the heritage issues from the counterpart planning issues. The owner nor his agent were made aware of the heritage evaluation being undertaken by the City, even though this was concurrent to the discussion of planning matters. The Act has been used as a “weapon.”

In conclusion, Mr. Lord asked to Board “to apply a higher standard” and maintain the intended integrity of the Act. The process that was used to put the ‘list’ together was flawed. In his opinion, the required merits of the property are not there and the City has compromised the integrity of the process. The irrelevant positions of the City as stated in the Reasons for Designation should be excised and the Board evaluate only what wording remains.

Summation of the Case for the City

Mr. Crawford stated that contrary to Mr. Lord’s statement that the City maintains control of these properties through rental protection legislation and the Building Code, the City has lost these controls to the Ontario Municipal Board appeals.

Regarding the timing of the Notice of Intention to Designate being issued, Mr. Crawford stated the timing for the Bayview properties is not unusual when there is a development proposal. The Act anticipates this scenario with a provision that the Notice of Intention to Designate voids all permits issued. The Preservation Services management team must make an informed decision based on the Preservation Officer’s research report, other written materials, and input from community stakeholders such as the Leaside Property Owners Association and Kelvingrove Tenants Association. Toronto Preservation Board as the City’s municipal heritage committee, not City staff, makes the final recommendation to Council.

Mr. Crawford contends that the designation process was properly conducted and it is not the role of the Board to evaluate the City’s procedures when implementing the Act. Nor is it the role of the Board to comment on how or when the designation review was initiated, or whether the Act is a draconian measure in regard to property rights.

The methodology employed by Ms Anderson was thorough and detailed and meets current practice standards. There was no evidence presented by Mr. Lord to dispute her findings in regard to historical or associative value. Talbot has an association with the properties and is a person of significance to the community. Contextually, these buildings are the first built on Bayview Avenue at the south end of Leaside. The apartments were designed to complement the scale and materials of the residential buildings that abut the site to the rear and along the side streetscapes.

The Board was reminded that a property only needs to meet one criterion of Regulation 9/06 to warrant protection under the Act.

Findings of the Board

Identification of Issues

1. Timing of Listing and Proposal for Designation

An allegation was made by Mr. Lord on behalf of the property owner that the City’s motive for the listing and protection of the subject properties was to respond to a “perceived threat.” The Board is only concerned with this matter insofar as it may question the validity of the cultural

heritage evaluation under Regulation 9/06.

The chronology of events provided by both Parties indicates that Context Development Inc. held a community meeting on January 16, 2007, “to engage the immediate Kelvingrove Leaside Community [in] the possible redevelopment of the Kelvingrove Apartments and Glenleven Apartments” (Exhibit 8, Index, Background and Chronology of Key Events). An email dated January 17 from Agnes Vermes to Brian Gallagher, Toronto Preservation Services, is a follow-up to a previous contact during which Ms Vermes appears to have requested that the properties be assessed for listing on the Inventory. Photographs taken by Ms Vermes are dated January 14, 2007. On January 18, Mr. Gallagher asked a staff member to add this location to the commence assessment list (Exhibit 6).

Mr. Athey testified that it was made known by Context Development Inc. at a public meeting that there would be “demolition and redevelopment” of the site.

The Board is aware that the listing and protection of properties for cultural heritage reasons is an ongoing process. As stated by Ms Anderson, any increased interest or attention paid to a specific property can prompt research and cultural heritage evaluation (“assessment”).

It is the Board’s position that whether this assessment was the result of a “perceived threat” is inconsequential, if followed by appropriate research and cultural heritage evaluation. The Board is satisfied that the City, once made aware of the properties, genuinely recognized the potential for cultural heritage value and undertook their standard research and evaluation protocol necessary to apply Regulation 9/06.

2. Relationship Between Planning and Heritage

Many of the referrals to the Board under s.29 of the Act are for properties that are proceeding simultaneously through a process under the Planning Act. As the Board has no jurisdiction under the Planning Act, the panel members presiding at a hearing must ensure that landuse planning evidence is not permitted except to give context to cultural heritage matters.

In this case, the Board was asked to consider the relationship between the provincial interests in cultural heritage and archaeological resources as stated in the Provincial Policy Statement of the Planning Act and implemented through the Planning Act, and the Ontario Heritage Act. Mr. Smith stated that as a landuse planner with experience in heritage conservation matters, there should be no disconnect between heritage matters and landuse planning. Mr. Lord suggested that the City undertook an unfair process by not disclosing the City’s interest in the protection of these properties for cultural heritage reasons earlier in the planning process.

In this case, the subject properties were not listed on the Inventory of Heritage Properties when a proposal for development under the Planning Act was initiated in November 2006 when Context Development Inc. first met with City staff. At that date, the cultural heritage policies of the City of Toronto Official Plan readily defined the City’s position on the conservation of its cultural heritage resources.

Ms Anderson stated that she undertook the cultural heritage evaluation of the properties starting in March 2007. The City and Context Development Inc. concurred that there was a meeting with Preservation Services on March 30, 2007, to “discuss the heritage value of the existing buildings on the subject three properties, as well as to provide the Heritage Preservation Staff an opportunity to review the proposed redevelopment scheme” (Exhibit 8 Index, p.2). The witness statement of Howard Cohen (Exhibit 15) states that at this March 30 meeting with Denise Gendron, Manager, Heritage Preservation Services, the “heritage value of the existing buildings on the site” was discussed but “At such time the issue of Heritage Preservation was not raised by Ms. Gendron with respect to the properties at 1325, 1351, and 1365 Bayview.”

Ms Anderson testified that her recommendation was for listing only. Sometime between her recommendation and the preparation of the June 13, 2007 Staff Report, the Preservation Services management team elevated one property (Glen-Leven, 1325 Bayview Avenue) to candidacy for protection under s.29.

It seems to the Board that the issue is not the lack of disclosure by the City of the potential for cultural heritage value, as much as the eventual degree to which the subject properties would be proposed for protection, i.e., under s.29 of the Act. In this regard, the City did meet the only requirements of the Act for notice to the property owner, that being when the three Notices of Intention to Designate were issued on November 9, 2007.

3. Listing vs. Protection Methodology

At the completion of her assessment, Ms Anderson recommended listing the three properties on the Inventory. The June 13, 2007 Staff Report proposed listing three properties and protecting Glen-Leven under s.29 of the Act. A September 13 report by the Toronto Preservation Board elevated the three properties to candidates for protection under s.29. North York Community Council endorsed this on October 2, it was adopted by City Council on October 23, and three Notices of Intention to Designate were published on November 9, 2007.

Ms Anderson gave evidence that there is no differentiation between the research and cultural heritage evaluation methodology undertaken for a property being listed on the Inventory, as opposed to a property proposed for protection under s.29 of the Act. No further research, analyses, evaluation, or description of the property is undertaken subsequent to an initial recommendation for listing only.

The Board acknowledges that the City's stated practice of listing only those properties that may become candidates for protection under the Act may be an efficient way of managing the volume and diversity of Toronto's built environment and its potential for cultural heritage resources. The Board, however, is of the opinion that the Act anticipates a more rigorous and subsequent cultural heritage evaluation process for a property being proposed for protection, as opposed to listing on the Register (Inventory). A "listed" property is not afforded any governance under the Act, apart from the 60-day requirement for notice of an application for a demolition permit. A "protected" property is afforded many provisions, including the ability of Council to deny or add terms and conditions to a permit application for alteration or for the demolition or removal of a building or structure. The consequence to an owner of a protected property is considerably more than that of a listed property.

In regard to the subject properties, it is the Board's opinion that the first rigorous examination of the design or physical and contextual values of these properties took place during the course of the hearing. The evidence presented demonstrated to the Board that the City was somewhat lax in assessing these values before drafting the statement of cultural heritage value or interest and description of heritage attributes for the designation bylaw.

It seems that this might be a situation inherent in the practice of having a single, expedient procedure for listing and protection, and currently only one Preservation Officer available to handle a large portfolio of properties requiring research and assessment in a timely manner.

As illustrated by Mr. Lord, this situation does not give the property owner the assurance that a property is being protected under the Act for reasons that are valid, precise, site specific, and that will hold under scrutiny for the long term. The Board accepts that some aspects of the cultural heritage value of a protected property are often only revealed inadvertently over time, however, the implications of the Act on a protected property are sufficient to warrant due

diligence in the methodology and cultural heritage evaluation.

4. Differentiation Between Subject Properties

In their testimony, neither Ms Anderson nor Mr Carter differentiated between the properties in terms of design or physical, historical or associative, or contextual values. Ms Anderson concluded that they hold equal, individual and collective cultural heritage value or interest; Mr. Carter that they are equally lacking in cultural heritage value or interest apart from the possible association with H.H. Talbot.

Ms Stephenson spoke about the buildings as being “complimentary, polar opposites” that are individually diverse yet form an interconnected, cohesive unit. She described Glen-Leven and its internal courtyard as cloistered; and Kelvingrove and its street-oriented garden as being directed to the public. In her opinion, Kelvingrove is the “preferable building.” Mr. Athey described the value of the properties as “collective.”

The Reasons for Designation describe each property as “part of a group of three neighbouring apartment complexes . . . that feature different configurations, but share a similar scale and architectural appearance.”

In the Board’s opinion, there was a lack of evidence presented with which to specifically differentiate between these properties. This bodes the question of how Preservation Services was able to elevate only the Glen-Leven property from listing to protection under s.29. The June 13, 2007 Staff Report states, “The Glen-Leven Apartments at 1325 Bayview Avenue are of special interest because of the complex’s layout and detailing, and the property meets the criteria for designation under Part IV of the Ontario Heritage Act.” The Reasons for Designation state under design or physical value that: “The Glen-Leven Apartments, in particular, display a sophisticated approach to land use, with an axial design that organizes the components around the U-shaped complex at the centre, with the entrances either overlooking the adjacent streets or facing the central courtyard.”

No substantive evidence was provided to the Board with which to separate the “special interest” of Glen-Leven over Kelvingrove or Strathavon; or of any one property over the other. The implications of this are further explained in the following discussion.

Discussion and Recommendations

Of the primary evidence presented, it is the Board’s opinion that Ms Anderson focused on the historical or associative value and offered a description, not analysis, of the design or physical and contextual values. Mr. Carter deferred to Ms Anderson’s findings on historical or associate value and analysed the design or physical and contextual values. Only together did these witnesses provide the Board with sufficient evidence on which to make its recommendations.

Design or Physical

Based on the evidence, the Board considers the apartment buildings to embody elements of a 20th century Revival style (whether labelled Colonial, Georgian, or Neo-Colonial), including the use of contemporary building technologies, materials, and an approach to decorative elements characteristic of this period of construction, 1938 to 1940. The structures are also substantially unaltered. Mr. Carter demonstrated that the original decorative elements generally are not well crafted and the buildings are “entirely standard construction” and “unexceptional.”

The sociological aspect of the 1930s economic depression prompting the construction of apartment type housing as an affordable alternative to single family dwellings is a concept worthy of commemoration, but the Board agrees with Mr. Carter that this phenomenon is not

unique to Leaside or to this site.

Although, in the Board's opinion, Regulation 9/06 does not intend that only the "best" examples be protected, the Board accepts the evidence that this type of apartment complex is not rare or unique in Toronto. It is also acknowledged that another "outstanding" example, Garden Court Apartments at 1477 Bayview Avenue, is in close proximity to the subject properties and is a protected property.

The Board accepts that these buildings are period examples of a 20th century Revival style, but does not agree that the properties meet the criteria of Regulation 9/06 for design or physical value. These are not rare, unique, representative examples, nor do they have a high degree of craftsmanship, artistic merit, or technical or scientific achievement.

Historical or Associative

The Board finds the most compelling cultural heritage value of these properties to be historical or associative. Sufficient evidence was provided to associate the development of these apartment complexes with Henry Howard Talbot as owner and likely the developer/contractor. It is reasonable to presume that Talbot's interest in the progressive, physical development of Leaside as a 20th century, model community figured in the way in which he developed these lands. He was mayor of Leaside in 1938, at the onset of the construction of these apartment structures, and remained in office until 1947.

Although not identified by the City as a heritage attribute, there was evidence relating to the former laneway to the William Lea residence. This laneway was disregarded when the original garages were erected, leaving only a remnant at the north side of the Kelvingrove property. In the Board's opinion, the laneway no longer contributes to the cultural heritage value of this site. There may be merit in commemorating the location of this formerly important corridor and its association with the founding Lea family.

Evidence indicated that these buildings were the first constructed on these lots following 1924 when this section of Bayview Avenue was subdivided for development. This lessens their association with the founding of Leaside in 1913, but does place the properties within a significant period of Leaside's development. It should be clarified in the statement of cultural heritage value or interest that these properties are not integral to the founding of the Town of Leaside in 1913. The City's statement that these properties are "associated with the evolution of Leaside as the community matured after World War I" should be the primary focus.

The Board agrees that the properties meet the criteria of Regulation 9/06 for historical or associative value, in that they hold a direct association with Henry Howard Talbot and his vision for the continued development of Leaside as a 20th century, model community.

Contextual

The Board heard evidence that the 190-ft Bayview Avenue frontage of the three parcels and their location opposite the open space of Mount Pleasant Cemetery makes this stretch of Bayview Avenue distinct. Given the evidence by Mr. Carter on the already evolved character of Bayview Avenue, it is difficult to conclude that the apartments would be as discernable on the landscape if not for the landmark cemetery.

The transition of the built form between Bayview Avenue, as a commercial arterial road, and the residential buildings to the side and rear, in the opinion of the Board, is not specific to the cultural heritage value or interest of these properties. It is an urban design form that can exist in old and new construction.

The Board cannot agree that the apartments are important in defining, maintaining, or supporting the character of this stretch of Bayview Avenue. The larger Leaside community has retained its original residential character, but as demonstrated by Mr. Carter, Bayview Avenue has evolved. The residential use of these apartments is functionally linked to the surroundings, but this alone would not warrant protection under the Act for contextual reasons.

Overall Consideration

Of overall consideration for the Board is the issue of whether any distinction can be made between the cultural heritage values of each property as separate entities, or must all three be protected under the Act to capture any cultural heritage value of the whole site.

Both Ms Anderson and Mr. Carter find each property of equal value (or lack of value), individually and collectively. Ms Stephenson considers the properties to be individually diverse, cohesively one unit, and Kelvingrove/Strathavon the “preferable building.” Preservation Services was able to segregate a “special interest” in Glen-Leven sufficient for protection of only this property under s.29 of the Act.

Due to what seems to be a lack of succinct evidence in this regard, the Board finds itself unable to discern whether the properties are equal in cultural heritage value and, therefore:

- These are three abutting properties being proposed for protection under the Act for identical reasons; or,
- That the three properties collectively are necessary to document and commemorate any cultural heritage value or interest; or,
- 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, or,
- That Kelvingrove (singly and not grouped with Strathavon) is the preferable building.

It is this primary consideration that forms of the basis of the Board’s recommendation.

Recommendation

Based on the evidence heard, it is the Board’s opinion that under Regulation 9/06 these properties hold historical or associative value only, and that this is found in the direct association with Henry Howard Talbot and his vision for the progressive, physical development of the Town of Leaside as a 20th century, model community. This is sufficient to warrant protection under s.29 of the Act.

It is also the Board’s opinion that there is no compelling cultural heritage evidence that the properties must function collectively or as a tri-part unit. In addition, no clear distinction was made between the cultural heritage values of each property with which to evaluate or compare the value of one to the other.

The Board, therefore, recommends that before the Council of the City of Toronto proceeds with the protection of any or all of the properties known as 1325, 1351, and 1365 Bayview Avenue, under s.29 of the Ontario Heritage Act, R.S.O. 1990, c.O.18, as amended, that Council consider the following:

1. That Council consider what the Board has identified as a lack of evidence regarding what *cultural heritage reasons* moved three properties proposed for listing, to three for listing and one

for protection, to three for protection under the Act; and,

2. If each property holds equal cultural heritage value, as suggested by the evidence heard, and, in the Board's opinion this is limited to historical or associative value, that Council reconsider whether the protection of three properties is necessary. One property may be sufficient to document and commemorate the historical or associative value.

3. If it is agreed that only one property is sufficient to document and commemorate the historical or associative value, that Council review whether:

- The "special interest" consistently assigned the Glen-Leven property at 1325 Bayview Avenue makes this alone the logical choice for protection under the Act; or,
- That Kelvingrove at 1365 Bayview Avenue alone is the preferable property given its public streetscape orientation and proximity to the former William Lea laneway; and,
- That Strathavon at 1351 Bayview Avenue alone is not the best choice to represent the cultural heritage value of this location given its apparent lack of distinctive character when compared to Glen-Leven and Kelvingrove.

4. It should be clarified in the statement of cultural heritage value or interest that this site is not integral to the founding of Leaside in 1913. The fact that the site is "associated with the evolution of Leaside as the community matured after World War I" should be the primary focus.

5. If it is agreed that the properties do not hold design or physical and contextual values, the statement of cultural heritage value should be amended accordingly. The description of heritage attributes should be revised to capture only those physical elements and qualities necessary to manage the historic integrity of the site for the long term.

The Board recognizes that the final decision in this matter rests with the Council of the City of Toronto.

The Board appreciated the efforts of all participants in these proceedings.

(ORIGINALLY SIGNED BY):

Su Murdoch, Vice-Chair
October 15, 2008

(ORIGINALLY SIGNED BY):

Terry Moynihan, Member
October 15, 2008

Schedule 1

Exhibits List

Exhibit 1: Statement of Service, submitted by the Board

Exhibit 2: City of Toronto Document Book, August 2008, submitted by the City

Exhibit 2A: Typescripts of Property Abstracts, submitted by the City

Exhibits 3A and 3B: Parcel Registers from Land Registry Office, submitted by the City

Exhibit 4: Certificate of Amendment, re ADMNS Kelvingrove Investment Corporation, submitted by the Owner/Objector

Exhibit 5: Extracts of architectural publications, submitted by the City

Exhibit 6: Communications initiating a request for assessment, submitted by the City

Exhibit 7: Witness Statement, Kathryn A. Anderson, submitted by the City

Exhibit 8: Appellant's Document Brief, submitted by the Owner/Objector

Exhibit 9: Appellant's Supplementary Document Brief, submitted by the Owner/Objector

Exhibit 10: Plot plan of subject sites, submitted by the Owner/Objector

Exhibit 11: Witness Statement of Phillip H. Carter, submitted by the Owner/Objector

Exhibit 12: Curriculum Vitae of Phillip H. Carter, submitted by the Owner/Objector

Exhibit 13: *Assessment of Heritage Value or Interest, 1325-1365 Bayview Avenue, Toronto, Phillip H. Carter, February 4, 2008*, submitted by the Owner/Objector

Exhibits 14A to 14V: Photographs exhibit, submitted by the Owner/Objector

Exhibit 15: Witness Statement of Howard E. Cohen, submitted by the Owner/Objector

Exhibit 16: Witness Statement of Peter F. Smith, submitted by the Owner/Objector

Schedule 2

Notices of Intention to Designate: Heritage Attributes Extract

1325 Bayview Avenue Heritage Attributes

The heritage attributes of the Glen-Leven Apartments related to its design value as a representative example of a World War II era apartment house with Georgian Revival detailing are found on the exterior walls and roofs, consisting of:

- The scale, form and massing of the five two-storey apartment buildings that form the complex
- The layout of the buildings, with a large three-part U-shaped structure organized around a deep courtyard entered from Bayview Avenue, detached buildings at the northwest and southwest corners of the property that face west toward Bayview Avenue, and single buildings on Sutherland Drive and Airdrie Road, respectively
- The application of red brick for the cladding, quoins, stringcourses, and window trim (flat arches and sills)
- The organization of each structure into three parts, with the central section protected by a steeply-pitched hipped roof with brick chimneys and the outer units covered by flat roofs
- On the central U-shaped building, the placement of the entrances to the units on the walls facing the courtyard (with access to the basement on the left or north wing) where paneled doors with single lights are protected by open porches with tent roofs, wood latticework posts, and cornices with scalloped trim
- The symmetrical arrangement of the flat-headed window openings, which are duplicated in each storey, and range from single diminutive openings to larger Venetian windows
- The continuation of the pattern of flat-headed window openings on the other walls of the central U-shaped building and on the others in the complex, where some of the entrances are placed in segmental-arched brick surrounds with fanlights
- The wood shutters on many of the window openings, which are characteristic of the Georgian Revival style
- On Bayview Avenue, the low brick wall with brick pedestals, stone trim and ironwork detailing that marks the open end of the landscaped courtyard
- The six detached two-storey garages at the rear (east) end of the site are not included in the Reasons for Designation.

1351 Bayview Avenue Heritage Attributes

The heritage attributes of the Strathavon Apartments related to the complex's design value as representative examples of World War II era apartment houses with Georgian Revival detailing are found on the exterior walls and roof, consisting of:

- The scale, form and massing of the pair of two-storey buildings facing Bayview Avenue and Airdrie Road, respectively
- The uniform red brick applied for the cladding, quoins, window detailing (flat arches and sills), and diamond patterns on the gabled frontispieces
- The steeply-pitched hip roofs with central brick chimneys
- The organization of each building into three sections with a gabled frontispiece facing the street
- On the frontispieces, the pairs of flat-headed window openings in each storey

- Flanking the frontispiece on each building, the placement of single entrances in the outer bays between single and three-part flat-headed window openings
- On the units facing Bayview Avenue, the entries featuring wood surrounds with stepped pediments and pilasters that highlight the paneled doors with single lights and flat transoms
- On the building facing Airdrie Road, the entrances set in round-arched wood surrounds with Classical detailing that contain paneled doors with single lights and flat transoms
- The continuation of the pattern of symmetrically placed flat-headed window openings on the side walls that are viewed from Bayview Avenue and Airdrie Road
- The wood shutters found on many of the window openings that are identified with the Georgian Revival style
- The garage units at the rear (east) end of the property are not included in the Reasons for Designation.

1365 Bayview Avenue Heritage Attributes

The heritage attributes of the Kelvingrove Apartments related to the complex's design value as a representative example of a World War II era apartment house with Georgian Revival detailing are found on the exterior walls and roofs, consisting of:

- The scale, form and massing of the large two-storey U-shaped plan that is organized around a shallow and wide courtyard entered from Bayview Avenue
- The uniform red brick applied for the cladding, chimneys, quoins, stringcourses and window trim (flat arches and sills)
- The steeply-pitched gable roofs covering the north and south wings and the middle section of the centre block (where the outer bays are protected by flat roofs) and the brick chimneys
- The main entrances to the units, which are found on the walls facing the courtyard and consist of paneled wood doors with single lights and flat transoms in segmental-arched wood surrounds with Classical detailing
- Flanking the entries, the flat-headed window openings that are symmetrically placed in each floor, with large Venetian windows beside diminutive single openings
- On the north and south wings, the gable end walls facing Bayview Avenue that feature quoins, pairs of flat-headed window openings in each storey, and triangular motifs beneath the gables
- On many of the window openings on the building, the wood shutters that are features of the Georgian Revival style
- Along the west end of the site, the low brick wall with brick pedestals, stone trim and ironwork detailing marking the open end of the courtyard
- The rear walls of the north and south wings, which are visible from Bayview Avenue and feature flat-headed openings
- The fire escapes on the wings and the garages at the east end of the property are not included in the Reasons for Designation.

Schedule 3

**ONTARIO HERITAGE ACT
REGULATION 9/06
No Amendments
CRITERIA FOR DETERMINING
CULTURAL HERITAGE VALUE OR INTEREST**

Criteria

1. (1) The criteria set out in subsection (2) are prescribed for the purposes of clause 29 (1) (a) of the Act. O. Reg. 9/06, s. 1 (1).

(2) A property may be designated under section 29 of the Act if it meets one or more of the following criteria for determining whether it is of cultural heritage value or interest:

1. The property has design value or physical value because it,
 - i. is a rare, unique, representative or early example of a style, type, expression, material or construction method,
 - ii. displays a high degree of craftsmanship or artistic merit, or
 - iii. demonstrates a high degree of technical or scientific achievement.

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

3. The property has contextual value because it,
 - i. is important in defining, maintaining or supporting the character of an area,
 - ii. is physically, functionally, visually or historically linked to its surroundings, or
 - iii. is a landmark. O. Reg. 9/06, s. 1 (2).

Transition

2. This Regulation does not apply in respect of a property if notice of intention to designate it was given under subsection 29 (1.1) of the Act on or before January 24, 2006. O. Reg. 9/06, s. 2.