

PB25.5.1

SHERMAN · BROWN · DRYER · KAROL
BARRISTERS & SOLICITORS

October 2, 2013

Our File No.: 00-1451

Toronto Preservation Board
2nd floor, West Tower, City Hall
100 Queen Street West
Toronto, ON M5H 2N2

Attn: Ms. Janette Gerrard, Committee Secretary

Dear Chair and Board Members:

**Re: Objection to Listing/Designation of any of the properties municipally known as 231-237 COLLEGE STREET and 177-189 HURON STREET in the City of Toronto
Agenda Item No. PB25.5, Scheduled for Consideration on October 3, 2013**

We are the solicitors for Shiupong (231 College) Limited, who acquired the above referenced property (the "Site") on February 6, 2013 after a fulsome pre-acquisition consultation process with City Staff and the Ward Councillor during the preceding two months.

During this process, neither City Staff nor the Ward Councillor ever raised any heritage issue whatsoever. We were not surprised since our consulting team reviewed all matters, including heritage, prior to our client's acquisition of the Site and confirmed that the property was not listed or designated and had never been proposed at any time in the past to be listed or designated.

From the outset, our client and its representatives consistently made it known that the sole purpose of acquiring the Site was to demolish the existing building in order to replace it with a new condominium and rental apartment development. We emphasize that at no time during our pre-acquisition or post-acquisition consultations did anyone ever raise any heritage issue with us.

The City's list of materials required to submit our client's development application, provided by City Staff on January 25th, prior to acquisition of the Site, indicated that a Heritage Impact Statement was not required. Consequently, our client acquired the property on February 6th as noted above, and proceeded to perfect its development application on that basis. The application package (OPA, ZBA and Rental Demolition) was submitted on March 28th and accepted as complete, on the same basis, on May 13th (by means of a Notification of Complete Application dated May 7th).

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PRACTISING IN ASSOCIATION

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THE INDIVIDUAL LAWYERS NAMED ABOVE PRACTISE IN ASSOCIATION WITH ALAN J. BEYRON PROFESSIONAL CORPORATION

Planning Staff's preliminary evaluation report, dated May 17, 2013, likewise did not raise heritage as an issue of any relevance to the Site. Indeed, throughout the twelve pages of the report, the word "heritage" is only mentioned twice, in one paragraph pertaining to a review of the policy context for Spadina Avenue not College Street. The first time that heritage was ever raised in relation to our client's property was when the preliminary evaluation report was considered by Toronto and East York Community Council on June 18, 2013. Apparently in response to community concerns about the size of our client's proposed development (which, notwithstanding the concerns expressed, is relatively modest) the Ward Councillor moved that "Heritage Preservation Services investigate the potential of including 231-237 College Street and 177-189 Huron Street on the inventory of heritage properties", despite no mention of heritage as an issue ever having been made to our client or its representatives during the prior eight months.

Our client strongly opposes peremptorily including the properties at 233-237 College Street and 189 Huron Street on the City's Inventory of Heritage Properties and designating these properties under Part IV, Section 29 of the Ontario Heritage Act. At least four serious issues are brought into play by the way in which this matter has come forward:

1. There is nothing different or special about this Site that would warrant it being singled out over similar sites along College Street, other than the fact that our client has recently submitted an application for rezoning. There are numerous examples of buildings in the surrounding area on College Street and Spadina Avenue with virtually identical designs that have never been deemed to include any features characterized as "heritage attributes" (as identified by Staff in their report). These buildings are in much better condition than those on the Site and more worthy of inclusion in the City's inventory of heritage properties. Furthermore, when some of the surrounding buildings with the same designs (but in better condition) were reviewed in the past 10 years, City Staff never recommended that they be designated.
2. To use the heritage process as a means of delaying or affecting the approval of a legitimate development application undermines the integrity of the listing/designation process altogether.
3. Heritage Preservation Services staff have neither contacted nor consulted our client about this matter, despite the fact that it has had an active development application before the City for over six months. In this regard, the heritage staff report wrongly states that the present owners of the Site acquired the property in 2007 when, in fact, the previous owners did so. Relatedly, formal notice of this matter was sent to the previous owners rather than to our client, who only received an advisory email from Heritage Preservation Services staff.
4. To now proceed in the manner proposed in the report being considered by your Board would constitute a manifest breach of procedural fairness, seriously prejudicial to our client, who would have reconsidered its decision to acquire the property had it been provided with any indication whatsoever that the City might consider the property to have heritage significance.

Accordingly, we submit that our client's property should not be listed or designated and respectfully request that the Toronto Preservation Board not adopt the recommendations contained

in the staff report before it for consideration but rather defer consideration of the matter. In this regard, our client intends to include representatives of the local community in a comprehensive consultative process, beginning with the City's upcoming Community Consultation Meeting scheduled for October 29th, in order to determine whether a consensus can be achieved.

Should you have any questions, please do not hesitate to contact the writer, or Laura MacCormick, a Planner in our office.

Adam J. Brown

Cc: Councillor Adam Vaughan
Mr. James Parakh (Acting Director, Urban Design)
Ms. Mary MacDonald (Acting Manager, Heritage Preservation Services)
Ms. Lynda Macdonald (Manager, Toronto & East York District Community Planning)
Ms. Marian Prejel (Senior Planner, Toronto & East York District Community Planning)
Mr. Henry Hung (Applicant)
Mr. Michael McClelland (ERA Architects Inc.)
Mr. George Belza (Analogica)