

JAMES NAUMOVICH, B.A., LL.B.

BARRISTER AND SOLICITOR

JAMES NAUMOVICH, B.A., LL.B.

*813 Broadview Avenue
Suite 101
Toronto, Canada M4K 2P8*

TELEPHONE: 416-466-2119

FACSIMILE: 416-466-2581

November 5th, 2015

City Clerk's Office
Toronto and East York Community Council
City Hall, 2nd floor, West
100 Queen Street West
Toronto, Ontario
M5H 2N2

Attention: Ms. Ulli S. Watkiss, City Clerk

Dear Ms. Watkiss:

Re: 811-813 Broadview Avenue, Toronto, Ontario –Heritage Review

Please be advised I am the sole shareholder of 444132 Ontario Limited which has owned the above-noted properties for approximately thirty-five and one half years. I wish to make my objections clear. There is no need to repeat myself. Accordingly I am enclosing herewith copies of my letters to the Toronto Preservation Board dated October 28, October 30, and November 2nd, 2015 together with the enclosures. Please be advised that I will be taking the same position as set out in the enclosed letters at your meeting on November 10, 2015 at 11:00 a.m..

Yours ver truly,

J. Naumovich / JN

JAMES NAUMOVICH

JN/gr

Encls.

Dictated but not read



Ulli S. Watkiss
City Clerk

City Clerk's Office

Secretariat
Rosalind Dyers
Toronto and East York Community Council
City Hall, 2nd Floor, West
100 Queen Street West
Toronto, Ontario M5H 2N2

Tel: 416-392-7033
Fax: 416-397-0111
e-mail: teycc@toronto.ca
Web: www.toronto.ca

October 29, 2015

On November 10, 2015, starting at 11:00 a.m.,
or as soon as possible thereafter

The Toronto and East York Community Council

will meet in

**Committee Room 1,
Second Floor, City Hall, 100 Queen Street West**

The Community Council will discuss:

**Item TE12.14 - Inclusion on the City of Toronto's Heritage Register -
811 and 813 Broadview Avenue**

(Ward 29)

You can find a copy of the item on the City's website:

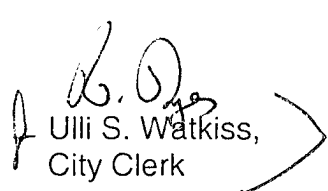
www.toronto.ca/legdocs/agendas.htm

You can pick up a printed copy of the item or any communications related to the item from the City Clerk's Office, 2nd floor, West, City Hall, 100 Queen Street West. You can also ask City staff to mail you this information. The Community Council's e-mail address is:

< teycc@toronto.ca.

If you wish to make a presentation to the Community Council about a particular item, please phone 416-392-7033 or e-mail teycc@toronto.ca by noon on the day before the meeting, so that we can include your name on the list of speakers. We limit presentations **to no longer than five minutes** to make sure that everyone who wants to speak has an opportunity.

Please call 416-392-7033, if you have any questions about the Toronto and East York Community Council or any items on its agenda.


Ulli S. Watkiss,
City Clerk

You can participate in the meeting

The City of Toronto encourages everyone to take part in the decision-making process at the City. You can participate in this meeting of the Toronto and East York Community Council by:

- **attending** the meeting to hear the community council discuss a particular item;
- **commenting** on a particular item in writing; or
- **making a presentation** to the Community Council about a particular item.

Attending the meeting:

Attend the meeting at the time listed on the reverse of this notice to hear the Community Council discuss the item. However, as the Community Council discusses other items on its agenda, it may not be able to consider this particular item until later than the time scheduled.

Commenting on a particular item in writing:

Mail, fax or e-mail your comments to:

Toronto and East York Community Council
2nd Floor, West, City Hall
100 Queen Street West
Toronto, ON M5H 2N2

Phone: 416-392-7033
Fax: 416-397-0111
e-mail: teycc@toronto.ca

Please note that City staff will not accept any unsigned letter or any letter without a return address.

Making a presentation to the Community Council about a particular item:

See the other side of this page for instructions on what to do to make a presentation.

If you plan to attend the meeting, the City can make available any special assistance that you may require, including attendant care services, if you give some advance notice. Please call 416-392-7033 or TTY 416-338-0889 to request this assistance.

Notice to people writing or making a presentation to the Toronto and East York Community Council

Notice to people writing or making presentations to the Toronto and East York Community Council: The City of Toronto Act, 2006 and the City of Toronto Municipal Code authorize the City of Toronto to collect any personal information in your communication or presentation to City Council or its committees.

The City collects this information to enable it to make informed decisions on the relevant issue(s). If you are submitting letters, faxes, e-mails, presentations or other communications to the City, you should be aware that your name and the fact that you communicated with the City will become part of the public record and will appear on the City's website. The City will also make your communication and any personal information in it – such as your postal address, telephone number or e-mail address – available to the public, unless you expressly request the City to remove it.

The City videotapes committee and community council meetings. If you make a presentation to a committee or community council, the City will be videotaping you and City staff may make the video tapes available to the public.

If you want to learn more about why and how the City collects your information, write to the City Clerk's Office, City Hall, 100 Queen Street West, Toronto ON M5H 2N2 or by calling 416-392-7033.

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October 28, 2015

Toronto Preservation Board

RE: Board Meeting 811-813 Broadview Avenue, Toronto

Dear Sirs:

Please be advised that I am the sole shareholder of 444132 Ontario Limited, the owner of 811-813 Broadview Avenue, Toronto, Ontario. I strongly object to any kind of historical designation for this property. I have owned this property since 1980. No mention was ever made of historical designation. Further, I would advise as follows:

1. This is not the original structure. I purchased from an Architect and I understand that the windows have been changed and that the building itself has been completely renovated.

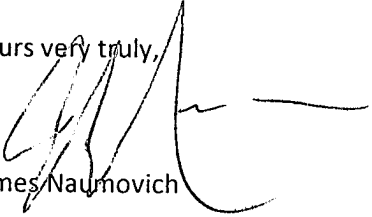
There are many old semi-detached buildings on Broadview Avenue. There is nothing to distinguish this property as "Historical". In addition, I would point to the Player Farm House which has obvious historical interest. There is nothing unique or special about this property.

2. This entire issue only came to light because the City of Toronto dating back to March 2015 presented an Offer to purchase my property and intended to convert to a surface parking lot. Miss Fragedakis appeared to be strongly opposed to that project. Efforts were made and the transaction was extended from a July conditional date to October 23, 2015 whereupon the condition failed. I was advised that Ms. Fragedakis came up with the idea to have the property marked "Historical". I believe that this is purely for the purpose of discouraging and destroying any potential development of the building:
3. The property has no particular value as a rental property. It is prime for development. Such a designation would cause me irreparable financial harm and I intend to seek my full legal remedies in this regard including an action for damages against all parties.

4. I understand that there has been completed or about to be completed a very extensive and expensive Broadview Avenue study which calls for "mid rise development" for my property and the two north of me namely 817 and 819 Broadview Avenue. Such a designation by the Toronto Preservation Board goes completely and utterly against the Broadview Avenue study. I would ask the Councillor, if she is planning to designate 817 and 819 as historical as well?
5. I find it insidious that the City of Toronto Parking Authority would present me with an Agreement of Purchase and Sale, would pursue me for weeks in order to get an agreement signed, and then, after approaching Ms. Fragedakis, were advised that she was against any kind of parking in the area. The residents in this immediate area have made it clear that there is a dire need for parking in the area.
6. This property has sat here for years, as I indicated, it is not the same property that was originally built. The windows as indicated have been changed. In addition, immediately next door to me is the Albany Medical Clinic and this is causing additional stress for parking.
7. I do not intend to allow any reduction in the value of my property by such a designation and I find it seriously sinister that Ms. Fragedakis would only raise these issues after being approached by the City of Toronto Parking Authority for consent to put in a parking lot. It appears she is attempting to destroy any and all potential development of my property.
8. I might add that I received a copy of the Notice of this meeting from another solicitor and was not even notified by the Toronto Preservation Board nor was I notified of the meeting by Ms. Fragedakis.

I find this entire process to be high handed and deliberately attempting to destroy any possible sale to the Parking Authority for Toronto which I might add, that transaction died at 11:59 p.m. on October 23, 2015.

Yours very truly,


James Naumovich

/mb

c.c. Mary Fragedakis

c.c. Alfred Schorr, Solicitor for James Naumovich

c.c. yshamji@toronto.ca

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October 30, 2015

WITHOUT PREJUDICE

Toronto Preservation Board

RE: 811-813 Broadview Avenue, Toronto

Dear Sirs:

Further to my letter of October 28, 2015, I am enclosing herewith a copy of the Request for Heritage Evaluation which was given to me by my clerk. This meeting apparently originated by way of a letter dated June 16, 2015 from councillor Mary Fragedakis.

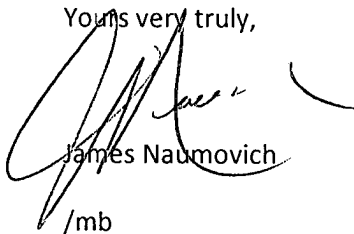
I understand that properties come to the attention of the Preservation Board by way of surveys conducted by the Board itself or by way of requests from members of the general public. I find it highly irregular that this request would come from a City Councillor. The timing of the request by Ms. Fragedakis came approximately one month before the expiry of the condition in my Agreement of Purchase and Sale with the Toronto Parking Authority. The Parking Authority made it clear that Ms. Fragedakis was against the purchase and against the development of a parking lot on my lands. The purchase by the Toronto Parking Authority required the approval of City Council. Ms. Fragedakis, given the timing of her letter, apparently decided to side step any hearing and attempted to have my property listed of Historical importance and or interest. I find this tactic to be an absolute abuse of power by a public official. Ms. Fragedakis has a public trust and must act with impartiality. This was a transparent attempt to achieve a private purpose by Ms. Fragedakis which was to prohibit a parking lot on my property.

1. I am a constituent and a private individual not a major developer. I have paid property taxes on this property for over thirty-five years at the top residential/commercial rate. Will Ms. Fragedakis or the board rebate forty per cent of the hundreds of thousands of dollars that I have paid in realty taxes over the past thirty-five years?

2. The property has no "Historical" importance. No major event occurred at my property. No important historical or political figure or person of note ever occupied the property. They were simply two non-descript semis which have been renovated.
3. I find the request for Heritage Evaluation of my property to be a transparent, abusive, misuse of public office by Ms. Fragedakis. Her motive was clearly to frustrate the Toronto Parking Authority going forward. She has succeeded in doing this and as I indicated in my previous letter, the Agreement of Purchase and Sale with the City has lapsed and is of no force and effect. Understand that it will not end with legal proceedings. I intend to contact the media regarding the manner in which this issue has been handled.
4. The Toronto Preservation Board is immune to law suits. However, I will be meeting with my legal counsel regarding a possible action for damages against Ms. Fragedakis.
5. I was advised that in early June there was a meeting at the Estonian House on Broadview regarding my property and I was advised that there were approximately twenty-five people which attended the meeting which was to discuss the sale of 811-813 Broadview Avenue and apparently, according to my source, twenty-two residents were in favour and only three were opposed.

I wish to make it clear that the timing of the letter sent by Ms. Fragedakis during the currency of an ongoing valid Agreement of Purchase and Sale is an outrageous attempt to not only frustrate the Agreement with the Parking Authority but to diminish any possible change of use to my property. I would suggest that Ms. Fragedakis withdraw her letter of June 16, 2015, and leave the issue for a later date when the prospective purchaser makes an Application to renovate or demolish the existing building. I believe this would save a lot of time and expense as well as litigation.

Yours very truly,



James Naumovich

/mb



Tracking Status

- This item was considered by Toronto and East York Community Council on June 16, 2015 and was adopted without amendment.

Toronto and East York Community Council consideration on June 16, 2015

TE7.124	ACTION	Adopted		Ward:29
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Request for Heritage Evaluation of 811-813 Broadview Avenue

Community Council Decision

The Toronto and East York Community Council:

1. Requested the Director, Urban Design, City Planning Division, to evaluate the property located at 811-813 Broadview Avenue for potential inclusion on the City's Heritage Register and report to the Toronto Preservation Board and Toronto and East York Community Council by the fourth quarter of 2015.

Origin

(June 16, 2015) Letter from Councillor Mary Fragedakis, Ward 29, Toronto-Danforth

Summary

Community Planning staff notified me this morning of the potential heritage value of 811-813 Broadview Avenue, semi-detached houses, located within the Broadview Planning Study. The historic properties are amongst the very earliest buildings on Broadview Avenue and are not included on the City's Heritage Register. The Toronto Parking Authority is proposing to acquire the properties and convert six (6) parking spaces at the rear of the property for short-term paid parking.

Background Information

(June 16, 2015) Letter from Councillor Mary Fragedakis - Request for Heritage Evaluation of 811-813 Broadview Avenue

(<http://www.toronto.ca/legdocs/mmis/2015/te/bgrd/backgroundfile-81596.pdf>)

Motions

1 - Motion to Add New Business at Committee moved by Councillor Gord Perks (**Carried**)

2 - Motion to Adopt Item moved by Councillor Mary Fragedakis (**Carried**)

Source: Toronto City Clerk at www.toronto.ca/council

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*813 Broadview Avenue
Suite 101*

Toronto, Canada M4K 2P8

TELEPHONE: 416-466-2119

FACSIMILE: 416-466-2581

November 2nd, 2015

WITHOUT PREJUDICE

Toronto Preservation Board

Re: 811-813 Broadview Avenue, Toronto

I wish to clarify a point made in my October 30th, 2015 letter. When I asked Ms. Fragedakis to withdraw the application before the Toronto Preservation Board I did not intend to sound as if she should wait until another purchaser buys my property. What I intended to make clear was that town planning should be left to the Committee of Adjustments and the Ontario Municipal Board.

Further, Ms. Fragedakis refers to the Broadview Avenue study. She suggests that one of the purposes of the study is to connect Broadview to its past and to the Don Valley. I would ask Ms. Fragedakis to provide me with a copy of the Broadview Avenue study and to indicate exactly where in that study reference is made to 811-813 Broadview Avenue as having any historical connection whatsoever. I understand that the Broadview Avenue study specifically calls for mid level development of my two properties as well as 815 and 817 Broadview Avenue. Much time and money were spent preparing this study. I understand that it was written by experts in the field. Apparently none of the writers of the study have indicated any historical importance or heritage interest with respect to 811-813 Broadview Avenue.

She goes on to refer to front yard setback. My property is not the only one with a front yard setback on Broadview Avenue. Most properties do have a front yard setback. Mine is only relevant because I am now about to be surrounded by what soon will be five and six storey buildings. 811-813 Broadview Avenue is right next door to the Albany Medical Clinic and a five storey building directly across the street is being planned and another five or six storey building is being planned across the street on what is now the Sievenpiper properties on the west side just south of me.

I questioned the timing of this hearing and have indicated that I believe that Ms. Fragedakis has exposed herself to civil proceedings. I indicated in my previous letter that the Preservation Board is immune from prosecution but I expressed doubts that Ms. Fragedakis was also

continued on page 2

immune. I am enclosing herewith a copy of the head note from the case of Gutowski v. Clayton. The case is relevant because of the letter written to the Preservation Board by Ms. Fragedakis in June 2015 asking for a hearing. I have already made my point that I clearly believe that this was an abuse of her office. She wrote that letter knowing there was an existing Agreement of Purchase and Sale with the City of Toronto. I take the position her purpose had more to do with frustrating my contract than naming my property to be of historical interest.

I felt that it was important to bring these additional points to the attention of the board.

Yours very truly,



JAMES NAUMOVICH

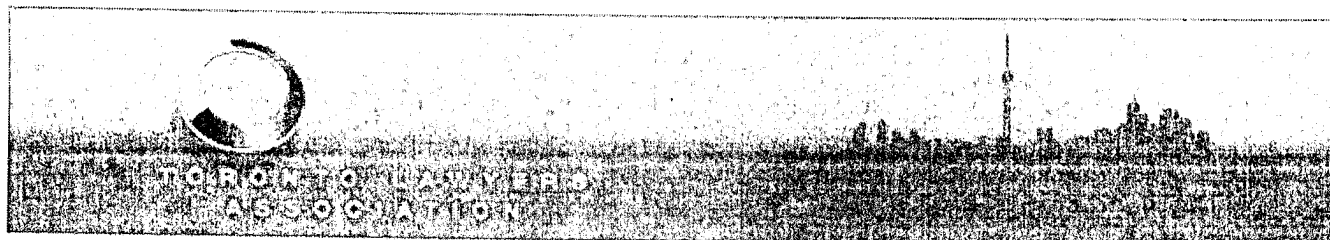
P.S. I would be asked that I be forwarded with a copy of the Broadview Avenue Study as soon as possible.

JN/gr

CC: Alfred Schorr, Solicitor for James Naumovich

CC: yshamji@toronto.ca

CC: Mary Fragedakis



Toronto Law Journal

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October 2015

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Elected Municipal Officials lose out on the Sweeping Protections of Absolute Privilege afforded to Members of Parliament and the Provincial Legislatures: *Gutowski v. Clayton*

By: Howard W. Winkler and Eryn J. Pond, Winkler Dispute Resolution

The Ontario Court of Appeal's decision in *Gutowski v. Clayton* ("Gutowski") delivers a clear message that the extensive speech immunity protections afforded by the common law defence of absolute privilege will not extend to statements made by municipal councilors in council meetings.

In *Gutowski*, a municipal councilor brought an action in defamation against the appellants, fellow municipal councilors in the County of Frontenac, which stemmed from statements made by the appellants in a regular council meeting. The appellants brought a motion under Rule 21.01(1)(a) of the *Rules of Civil Procedure* for a determination before trial of whether the defence of absolute privilege should be extended to protect statements made in municipal council meetings. The appellants unsuccessfully argued the motion and the appeal, with both courts agreeing that the defence of qualified privilege, but not absolute privilege, applies to statements made by municipal councilors in council meetings.

The Court of Appeal held that the appellants did not show that it is "plain and obvious" that the defence of absolute privilege "extends to the speech of municipal councilors made in the course of municipal council meetings." With no factual or expert evidence admissible on the motion, the Court noted that "a Rule 21 motion is not the appropriate vehicle" to decide whether the common law definition of absolute privilege should extend to statements made by municipal councilors in council meetings on the basis of necessity.

[Click here to read the Full Article](#)