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# AIRD & BERLIS LLP

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Barristers and Solicitors

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May 9, 2016

VIA EMAIL to: [etcc@toronto.ca](mailto:etcc@toronto.ca)

Etobicoke York Community Council  
Etobicoke Civic Centre  
Main Floor, South Block  
399 The West Mall  
Toronto, Ontario  
M9C 2Y2

**Attention: Rosemary McKenzie, Administrator**

Dear Members of East York Community Council:

**Re: Item EY14.2 – Intention to Designate under Part IV, Section 29 of the  
Ontario Heritage Act – 260 High Park Avenue**

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Please be advised that Aird & Berlis LLP has been retained by the owner of lands municipally known as 260 High Park Avenue, City of Toronto. We are in receipt of the recommendations from the City Planning Division recommending that City Council state its intention to designate the property pursuant to Part IV, Section 29 of the *Ontario Heritage Act* (OHA).

The purpose of this letter is to advise you that our client strenuously objects to the staff recommendation, both because of the timing of the report and recommendation as well as the unusual recommendation that interior elements of one of the structures be included in the reasons for designation. **The effect of this designation at this time will be to unfairly restrict the review by the City of the associated application for rezoning and site plan to permit the adaptive re-use of the building.**

Additionally, and as is set out below, we believe that the reasons for the designation of certain elements on the property is based on a misreading of the Heritage Impact Assessment prepared by ERA Architects which has determined, following an in-depth review of the property and the rezoning application that the proposed adaptive re-use of the vacant building will be undertaken in such a way as to ensure that heritage attributes of the property will be maintained.

**Accordingly, our client asks that the EYCC not accept the staff recommendation and instead defer the designation of the property until our client has been afforded the opportunity to review its development application with staff and to reach a consensus as to how best to maintain the heritage attributes on the property.**

### **Sale of the Property Not a Rationale for Designation**

We have reviewed the March 30, 2016 staff report and the proposed Reasons for Designation. As the report references, the property at 260 High Park Avenue has been listed on the City of Toronto inventory since 1990. The property was sold last year and is now the subject of a development application by our client. The fact of the sale is the rationale provided by staff for proceeding with the designation at this time.

In our respectful submission, nothing which has occurred since the purchase of the site by our client gives rise to a need for designation at this time. To the contrary, our client's actions to date demonstrate a clear recognition of the important heritage resource on the property and the need for consideration of that resource to be paramount in the planning process associated with the restoration and adaptive re-use of the property. As is set out in our letter of April 20<sup>th</sup>, 2016 to the Toronto Preservation Board (attached), our client has undertaken consultation with the City prior to filing its applications and with representative of various community interests thereafter. At the direction of staff, and early in the process, our client retained ERA Architects early in the process to undertake a Heritage Impact Assessment (HIA) to consider the appropriate approach to redevelopment on the property.

### **Development Proposal**

Our client's development proposal will see the adaptive re-use of the former church sanctuary building located on the property. The annex building, a later addition, which was used historically as a "Sunday School" would be removed to permit the development of a 4 storey apartment building with a mix of one, two and three bedroom units. At 4 storeys (12.6m) and only 2.0x the site area the scale and proportion of the proposal maintains the character of the neighbourhood which is a mix of 2-3 storey single and semis as well as walk-up apartments. The existing sanctuary building will be preserved and retained in large part and its important location as a prominent building at the southwest corner of High Park and Annette will continue.

Our client proposes to mass the majority of the new construction to the west and south of the former sanctuary. In our submission, portions of the property can be considerably improved upon particularly, but not limited, to the existing parking lot which has little in the way of a compatible relationship to the adjoining residential properties. Placing the majority of the new development in this area is a sensitive approach to the key heritage resource on the property while allowing for moderate intensification on an underutilized lot.

### **HIA for the Property**

Our client retained ERA Architects to undertake a Heritage Impact Assessment of the development proposal on the heritage resources on the property. The HIA, issued February 10, 2016, represents a comprehensive review of the heritage attributes on the property and a complete assessment of the impact of the development proposal on those

attributes. Importantly, the HIA points out that the annex buildings are on the location of the original church, built in 1885 which was subsequently replaced by a second sanctuary building constructed in 1887 and which is located on the property today. The annex or Sunday School building was not constructed until 1924, was designed by a different architect than the sanctuary building and is of a plainer architectural style. It is not of Neo-Gothic Design as stated in the City's present review. The Sunday School building is noted as being in "poor condition" and the subject of many renovations. The replacement of the Sunday School portion of the site is characterized in the HIA as "part of the natural evolution of the site" and similar to the adaptive re-use of two other vacant churches in the area for residential uses.

The HIA concludes that "the current conditions, unchanged or with minor modifications, would not conserve the heritage value of the property. Indefinite mothballing is not an appropriate means of conservation. The recent period of disuse has already had a negative impact on the building and the church, in its current state, is not contributing to the community".

In our respectful submission, ensuring the adaptive re-use of the property will ensure the community continues to benefit from and enjoy the important heritage resources found on the property. This can only occur if there is a reasonable development opportunity on the property however; the proposed Reasons for Designation which include listing interior elements seek to unduly restrict redevelopment opportunities on the property.

### **Heritage Attributes Not At Risk**

We note that our client has not sought to alter or demolish the building on the property to date and is prepared to provide an undertaking that no such applications will be sought during these early stages of the planning process. Indeed, we would note that as the building is listed pursuant to Part IV of the OHA, no demolition permit would be issued without the City being provided with appropriate notice and an opportunity to bring forward a Notice of Intent to designate. However, as indicated by our client's actions to date, no such actions are anticipated.

Our client's application is very early in the evaluation process, and we have only recently received the initial round of comments from various City departments. We support the recommendation, found in the companion Preliminary Report (Item 14.8) that a community consultation meeting be held.

Setting out the Reasons for Designation now, in our view, is premature in that it prevents a meaningful dialogue with heritage preservation staff and the community with respect to the heritage attributes of the property. Our client has committed to be guided by that HIA and its retention of such a well-known and established heritage architectural practice in the City of Toronto so early in the process is a clear indication of the respect which it has for the heritage resources on the property.

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At this time, our client objects to the proposed designation, and the Reasons for Designation, due to issues of prematurity, a lack of need as there is no risk to the property as well as specific inclusions of interior elements in the Reasons for Designation. Our client remains committed to working with City staff and the community on the evaluation of the project.

We respectfully request that the EYCC not proceed with the staff recommendation to designate the property at 260 High Park Avenue pursuant to Part IV of the OHA at this time.

Yours very sincerely,

AIRD & BERLIS LLP



Eileen P.K. Costello  
EPKC/lm

c: Client  
ERA Architects, Phil Evans

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# AIRD & BERLIS LLP

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Barristers and Solicitors

Eileen P. K. Costello  
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April 20, 2016

VIA EMAIL

Toronto Preservation Board  
2<sup>ND</sup> Floor, West Tower  
City Hall  
100 Queen Street West  
Toronto, Ontario  
M5H 2M2

**Attention: Lourdes Bettencort**

Dear Chair Rieger and Members of the Toronto Preservation Board:

**Re: Toronto Preservation Board  
Item PB14.6 – Intention to Designate under Part IV, Section 29 of the  
Ontario Heritage Act – 260 High Park Avenue**

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Please be advised that Aird & Berlis LLP has been retained by the owner of lands municipally known as 260 High Park Avenue, City of Toronto. We are in receipt of the recommendations from the City Planning Division recommending that City Council state its intention to designate the property pursuant to Part IV, Section 29 of the *Ontario Heritage Act* (OHA).

The purpose of this letter is to advise you that our client objects to the staff recommendation for the reasons set out below. Instead, our client requests that the Toronto Preservation Board refuse the staff recommendation outright or defer consideration of this matter until later in the planning process.

We have reviewed the March 30, 2016 staff report and the proposed Reasons for Designation. As the report references, the property at 260 High Park Avenue has been listed on the City of Toronto inventory since 1990. The property was sold last year and is now the subject of a development application by our client. The fact of the sale is the rationale provided by staff for proceeding with the designation at this time.

In our respectful submission, nothing which has occurred since the purchase of the site by our client gives rise to a need for designation at this time. To the contrary, our client's actions to date demonstrate a clear recognition of the important heritage resource on the property and the need for consideration of that resource to be paramount in the planning process associated with the restoration and adaptive re-use of the property. By way of example, our client only filed its application for rezoning and site plan in February, 2016.

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This was more than 6 months following the purchase of the site. The first steps taken by our client were to meet with City staff (in June, 2015) for an introductory meeting, followed by more detailed meetings in October and November of 2015, including on-site meetings with staff from Planning, Urban Design and Heritage Preservation Services. Following staff direction, our client retained ERA Architects early in the process to undertake a Heritage Impact Assessment (HIA) to consider the appropriate approach to redevelopment on the property.

Additionally, and throughout the process, our client has met with Councillor Doucette, with local representatives of the business community (the Junction BIA) and heritage advocates, as well as immediately adjacent neighbours.

Our client has been transparent throughout the process to date that it intends to maintain the majority of the existing sanctuary on the property but that there will be alterations required of the "Sunday School" annex in order to facilitate the adaptive re-use of the property for residential uses. In our submission, portions of the property can be considerably improved upon particularly, but not limited, to the existing parking lot which has little in the way of a compatible relationship to the adjoining residential properties.

We note that our client has not sought to alter or demolish the building on the property to date and is prepared to provide an undertaking that no such applications will be sought during these early stages of the planning process. Indeed, we would note that as the building is listed pursuant to Part IV of the OHA, no demolition permit would be issued without the City being provided with appropriate notice and an opportunity to bring forward a Notice of Intent to designate. However, as indicated by our client's actions to date, no such actions are anticipated.

Our client's application is very early in the evaluation process, and we understand that a community consultation meeting will be organized for May of this year. Setting out the Reasons for Designation now, in our view, is premature in that it prevents a meaningful dialogue with heritage preservation staff and the community with respect to the heritage attributes of the property. Additionally, as the Reasons for Designation make specific reference to certain interior elements – an approach which is not common – my client and its consultants wish to better understand the rationale for and implications of this approach by staff.

Importantly, our client did retain ERA Architects solely in its design process to undertake a HIA for the property. Our client has committed to be guided by that HIA and its retention of such a well-known and established heritage architectural practice in the City of Toronto so early in the process is a clear indication of the respect which it has for the heritage resources on the property.

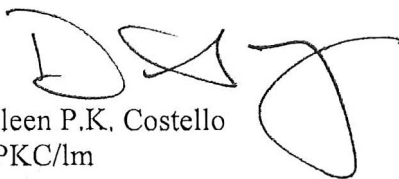
In closing, our client objects to the proposed Part IV designation at this time due to issues of prematurity, a lack of need as there is no risk to the property as well as specific inclusions of interior elements in the Reasons for Designation. Our client remains

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committed to working with City staff and the community on the evaluation of the project. We respectfully request that the Toronto Preservation Board: (i) defer this item until a more reasonable time in the planning process so as to allow our client to continue its dialogue with staff and the community; and (ii) in any event, not proceed with the staff recommendation to designate the property at 260 High Park Avenue pursuant to Part IV of the OHA at this time.

Yours very sincerely,

AIRD & BERLIS LLP



For: Eileen P.K. Costello  
EPKC/lm

c: Client  
ERA Architects, Phil Evans

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