



Davies
Howe
Partners
LLP

Lawyers

The Fifth Floor
99 Spadina Ave
Toronto, Ontario
M5V 3P8

T 416.977.7088
F 416.977.8931
davieshowe.com

Please refer to: **John M. Alati**
e-mail: johna@davieshowe.com
direct line: 416.263.4509
File No. 702979

December 6th, 2016

By E-Mail Only to teycc@toronto.ca

Chair and Members
Toronto Preservation Board
100 Queen Street West
2nd Fl., Ste. A 16
Toronto, Ontario
M5H 2N2

Attn: Ms. Lourdes Bettencourt

Dear Chair and Members:

**Re: Designation of the Garden District Heritage Conservation District under Part V of the Ontario Heritage Act
Garden District Heritage Conservation District Plan (the “HCD Plan”)
Comments from 1373365 Ontario Ltd.
212 Dundas Street East**

We are counsel to 1373365 Ontario Ltd., the owner of the lands known municipally as 212 Dundas Street East, located at the northeast corner of Dundas Street and George Street (the “Site”). Our client currently operates Filmores Hotel, a budget hotel and adult entertainment establishment, on the Site.

We are writing further to our correspondence to Heritage Preservation Services, dated November 18, 2016, which is attached hereto for your reference. We have reviewed the final HCD Plan along with our client’s heritage and planning consultants. Our client continues to have a number of concerns with the potential impact of the HCD Plan on both the Site and the Garden District area as a whole, as the majority of the issues identified in our previous correspondence have not been addressed.

Our client is particularly disappointed that the City has not engaged in further meaningful consultation with our client regarding the draft HCD Plan. Heritage conservation should be community-driven and responsive to the evolving perspectives of the area’s property owners, residents, and occupants. The HCD Plan will have a tangible impact on their interests, and its success depends on their confidence in and support for the process. Failure to



Davies
Howe
Partners
LLP

prioritize their perspectives may result in the imposition of policies and guidelines that do not reflect a shared vision for the future of the area.

We continue to have serious concerns with the HCD Plan and encourage the Heritage Preservation Board not to approve the HCD Plan and designate the area under Part V of the *Ontario Heritage Act*.

Should you have any questions, please do not hesitate to contact the undersigned.

Yours sincerely,

DAVIES HOWE PARTNERS LLP

A handwritten signature in blue ink, appearing to read 'John M. Alati', with a small 'p.s.' written to the left.

John M. Alati

JMA:kf

copy: Client



Davies
Howe
Partners
LLP

Lawyers

The Fifth Floor
99 Spadina Ave
Toronto, Ontario
M5V 3P8

T 416.977.7088
F 416.977.8931
davieshowe.com

Please refer to: **John M. Alatt**
e-mail: johna@davieshowe.com
direct line: 416.263.4509
File No. 702979

November 18, 2016

By E-Mail Only to tansonc@toronto.ca

Ms. Tamara Anson-Cartwright
Program Manager
Heritage Preservation Services
City of Toronto
City Hall, 17 East Tower
M5H 2N2

Dear Ms. Anson-Cartwright:

**Re: Draft Garden District Heritage Conservation District Plan (the
“Draft HCD Plan”)
Comments from 1373365 Ontario Ltd.**

We are counsel to 1373365 Ontario Ltd., the owner of the lands known municipally as 212 Dundas Street East, located at the northeast corner of Dundas Street and George Street (the “Site”). Our client currently operates Filmores Hotel, a budget hotel and adult entertainment establishment, on the Site.

We have reviewed the Draft HCD Plan along with our client’s heritage and planning consultants. Our client has a number of concerns with the potential impact of the Draft HCD Plan in its current form on both the Site and the Garden District area as a whole.

We are grateful for the opportunity to share our client’s concerns with the City. Our client looks forward to participating in further public consultation and would welcome the opportunity to provide detailed input and comments.

Limited and Isolated Timeframe

The Draft HCD Plan has isolated and prioritized a narrow timeframe in the Garden District’s history, being from the late 19th Century into the early 20th Century. While there are many buildings in the Garden District that date back to this period, this isolation does not acknowledge the on-going development after the mid-20th Century that has occurred in the area.

The Draft HCD Plan does not adequately capture the historical evolution of the Garden District, which is an important part of its character. Rather, it appears to



Davies
Howe
Partners
LLP

be “turning back the clock” in an effort to preserve the built form of a particular historical period. There is a risk that the restrictive and prescriptive nature of the Draft HCD Plan’s provisions could seriously limit any development in the area. This is contrary to the historical evolution of this area of the City.

Overly Broad Approach to a Diverse Area

The Draft HCD Plan has divided the Garden District into eight “Character Sub-Areas”. In practice, this is unwieldy and suggests that a blanket approach is being applied to a diverse area. We have noted that the City staff have divided other District Study areas into the same number of “Character Sub-Areas” and we question whether this seemingly formulaic approach is appropriate. It is also questionable whether the broad policies of the Draft HCD Plan are appropriate for every site in every Character Sub-Area. Locally-specific policies may better achieve the City’s heritage preservation goals, and would be easier to implement.

Lack of Appropriate Consultation with Owners

A properly constituted HCD is one where property owners are actively involved in developing a Plan that meets both the desires of the City and the desires of the community. Previous public consultation workshops have been too large to properly obtain input from individual owners. We encourage the City and its consultants to undertake detailed individual interviews with property owners to understand their views on the significance of the Garden District area.

Lack of Consideration of the Policy Framework

The Garden District area has been targeted for significant reinvestment and revitalization; however, the Draft HCD Plan, as currently written, appears to render intensification of the Garden District difficult or nearly impossible, even on vacant or non-contributing properties. Provincial and City planning policies require the balancing of heritage conservation and growth through intensification in the Downtown area. In our view, the Draft HCD Plan runs counter to the overall policy framework by failing to appropriately reconcile these objectives.

Concerns Regarding Specific Policies

In addition to the general concerns outlined above, our client has identified concerns with specific provisions of the Draft HCD Plan:



Davies
Howe
Partners
LLP

- Section 6.3.3 – The required preservation of historic lot lines could prevent the assembly of properties for intensification.
- Section 6.7.1 – Requiring the preservation of cultural heritage value while meeting current Building Code standards may prove to be impractical or impossible in practice.
- The proposed restrictions on demolition, specifically the prohibition on disassembly and reassembly of heritage properties, are inappropriate. Not all contributing properties are the same. A broader form of evaluation should be provided.
- Section 6.8 – This provision suggests that building features that have been removed or damaged should be reinstated. In our view, this is an inappropriate imposition of a subjective viewpoint. There is a body of opinion amongst heritage professionals that changes over time should be incorporated into a building.
- Section 6.9 – The broad statement that alterations shall be subordinate to the Garden District's cultural heritage value could preclude any reasonable intensification or re-purposing of sites throughout the area.
- Sections, 6.10, 6.11 and 6.12 – These provisions will have the likely effect of preventing any changes or additions whatsoever to contributing properties. This precludes even minor additions, which may promote greater usability, even where such an addition would have no meaningful impact on the heritage value of a property and would in fact constitute a reinvestment in a heritage resource.

The foregoing comments are general and preliminary in nature. Our client would welcome the opportunity to provide detailed input on how the Draft HCD Plan may impact the Site, and on Site-specific issues that may not be readily apparent from an area-wide analysis.

Conclusion

We thank the City for the opportunity to provide this feedback on behalf of our client. Do not hesitate to contact us if you have any questions or wish to discuss this matter further.



Davies
Howe
Partners
LLP

Yours truly,
DAVIES HOWE PARTNERS LLP


John M. Alati
JMA:KF

copy: Client