

# Sherman♦Brown

BARRISTERS & SOLICITORS

February 9, 2016

Our File No.: 00-1670

Toronto and East York Community Council  
2<sup>nd</sup> Floor, West Tower, City Hall  
100 Queen Street West  
Toronto, ON M5H 2N2

**Attention: Ms. Ros Dyers, Secretariat**

And To:

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

**Attention: Ms. Lourdes Bettencourt, Secretariat**

Dear Chair and Members of the Committee:

**Re: NOTICE OF OBJECTION to the proposed Historic Yonge Street Heritage Conservation District as it affects the properties municipally known as 10 ST. MARY STREET, in the City of Toronto**

**And Re: Request for Receipt of any and all future reports in respect of the proposed Historic Yonge Street Heritage Conservation District**

**And Re: Request for Notification of any meetings of Council, Committees of Council, Community Council and/or Public Meetings and/or Community Information Meetings where the Historic Yonge Street Heritage Conservation District is to be considered**

**And Re: Request for Notification of the passage the proposed Historic Yonge Street Heritage Conservation District**

**Toronto Preservation Board Item No.: PB12.1**

**Toronto and East York Community Council Item No.: TE14.4**

We are the solicitors for Lifetime St. Mary Street Inc., the owners of the property municipally known as 10 St. Mary Street in the City of Toronto. The Site is located on the northwest corner

of Yonge Street and St. Mary Street, just south of Bloor Street, an area within the City recognized as a "Centre" and a "Mixed Use Area" pursuant to the City of Toronto Official Plan. The area is recognized by the Provincial Policy Statement and Local City of Toronto Official Plan policies as one where the greatest height and densities are intended to be realized.

Our client acquired the Site on September 23, 2013. Prior to our client's acquisition of the Site, they reviewed, in detail, all City records which confirmed that the Site was neither listed, designated and/or within a heritage district pursuant to the Ontario Heritage Act. During its due diligence period, our client and its heritage consultant reviewed the status of the Site and building, confirming that the building had never been proposed to be listed nor designated, with other buildings on the same block having been added to the City's list of important heritage buildings and a Heritage District study had only being initiated with a Heritage Conservation District boundary not being even set. With no heritage interest ever shown in this specific property, and with our client being provided with a demolition permit during its due diligence period, which again, was issued after City Heritage Staff confirmed that the Site was neither listed and/or designated, our client closed on the purchase of the property.

Our client and their consultants also conducted a full and comprehensive review of the "in force" Provincial and City Policies, to determine the development potential of the Site for a tower condominium and having satisfied themselves that the existing building did not merit retention, our client and its various consultants attended pre-consultation meetings with City Staff (including planning, urban design and heritage staff) to review our client's proposed design. The original design included a podium that replaced the existing building with a new podium of a height that replicated the built form envelope of the existing building on Site. At that meeting, City Planning Staff and Urban Design Staff made it clear that our client's podium should be reduced to comply with the City's "new vision" for the area, as established in their recent report on the North Downtown Yonge Urban Design Guidelines (notwithstanding that these Guidelines do not have policy status). The recommendation to reduce the height of the podium to comply with the new 18m requirement, by definition, requires the demolition of the existing building. When the recommendation was made at our client's pre-consultation meeting, not once did Heritage Staff raise a concern and/or suggest that the building had any heritage significance whatsoever or that the future Heritage Conservation District would impact the proposed redevelopment of the Site. It was only after the pre-consultation process was there attempt by the City of Toronto to designate the property.

Our client subsequently filed an application for zoning by-law amendment on August 18, 2014 and when they received the first round of departmental comments, not once was it mentioned that they did not comply with any Heritage District characteristics or that it would be subject to a Heritage Conservation District. Our client appealed its site specific rezoning application to the Ontario Municipal Board and is scheduled to participate in an Ontario Municipal Board led mediation process on March 2, 2016, which process we hope will result in a successful settlement with the City.



To now pass a by-law designating the whole area as a Heritage Conservation District is essentially using the Ontario Heritage Act as a tool to stop development. The use of the heritage process, as a tool to control and/or delay development, is improper and unreasonable. In any event, it is our client's respectful submission that given the pre-consultation process where it was suggested that a podium height be proposed which required the demolition of the building, given the pre-acquisition due diligence carried out by our client and given the active application for a zoning by-law amendment on file with the City, and scheduled for mediation at the Ontario Municipal Board, the Site should not have been included in the proposed Heritage Conservation District.

In light of the significant efforts and funds invested by our client in acquiring the Site and going through the planning process to pursue its proposed development, we hereby formally request that the writer, as well as our client Lifetime St. Mary Inc., 49 Jackes Avenue, Suite 200, Toronto, ON, M4T 3E2) be provided with notice of any meetings of Council, Committees of Council, Community Council or Public Meetings/Community Consultation Meetings where reports related to the proposed Heritage Conservation District, are to be considered. We also respectfully request that both our client and the writer be forwarded copies of any future reports and/or proposed by-laws related to the proposed Heritage Conservation District. Finally, we would respectfully request that both the writer and our client be notified of the City's passage of the proposed Heritage Conservation District.

Should you have any questions, please do not hesitate to contact the writer, or Jessica Smuskowitz, a lawyer in our office.

Yours very truly,



Adam J. Brown

Encls.

Cc: Councillor Kristyn Wong-Tam  
Mr. Brian Brown (Lifetime St. Mary Street Inc.)  
Mr. Rob Wells (Lifetime St. Mary Street Inc.)