

**308-314 Jarvis Street and 225 Mutual Street -
Alterations to Designated Heritage Property and
Authority to Enter into Amending Heritage Easement
Agreement for 314 Jarvis Street**

Date: November 29, 2017

To: Toronto Preservation Board and City Council

From: City Solicitor

Wards: Ward 27 – Toronto Centre-Rosedale

REASON FOR CONFIDENTIAL INFORMATION

This report is about litigation or potential litigation that affects the City.

This report contains advice or communications that are subject to solicitor-client privilege.

SUMMARY

The heritage property at 314 Jarvis Street was listed on the City's Inventory of Heritage Properties on May 30, 1988. In the late 1980s and early 1990s the heritage property at 314 Jarvis Street was the subject of a rezoning application for a six-storey apartment building to be attached to the back of the heritage house. The proposal was eventually approved by Council and the OMB, the house designated under Part IV of the Ontario Heritage Act (By-law No. 81-90) and a Heritage Easement (the "HEA") registered on title (January 12, 1990 (CA 70417), amended March 31, 1992 (CA18352)). The HEA allows for the demolition of the rear "tail" or extension and conservation of the main front portion of the house in the context of the approved development. Aside from the approved alterations to construct the six- storey apartment building, under the provisions of the Heritage Easement Agreement, the owner cannot undertake or permit any demolition, construction, alteration, remodelling or any other act which would materially affect the features or construction of the building as set out in the Reasons for Identification and as may be depicted in the photographs, drawings and other documents attached to the HEA or that would affect the reasons for designation, without the permission of Council.

A Zoning By-law Amendment application was submitted for these lands on January 23, 2012 for a 50 storey tower. The application was revised on August 23, 2011, seeking permission for a 43 storey (136.5 metres including the mechanical penthouse) mixed-use building consisting of a 9-storey base building and a 34-storey tower at 308-314 Jarvis Street and 225 Mutual Street.

In a March 26, 2012 report from the Director, Urban Design, City Planning Division, "Removal of a Designated Heritage Property under the Ontario Heritage Act – 314 Jarvis Street", staff recommended that City Council refuse the removal of the designated property under section 34 of the Ontario Heritage Act as proposed by the applicant in a revision to the approved plans.

Consideration of the March 26, 2012 report and a March 28, 2012 report from the Director, Community Planning, Toronto and East York District entitled "308-314 Jarvis Street and 225 Mutual Street – Zoning Amendment Application – Refusal Report", were deferred by TEYCC at their May 15, 2012 meeting.

The Zoning By-law amendment application was appealed to the Ontario Municipal Board ("OMB") January 9, 2015 due to a lack of decision by the City within the statutory timeframe.

The Toronto Preservation Board on May 28, 2015, considered the (May 25, 2015) Report from the Director, Urban Design, City Planning, regarding Alterations to a Designated Heritage Property and Authority to Amend Existing Heritage Easement Agreement – 314 Jarvis Street (Dr. Charles Sheard House). On May 29, 2015, the Toronto Preservation Board provided its recommendation to the City Council, noting with concern the impact of the development on the adjacent heritage designated Allan Gardens, and recommended to the Toronto and East York Community Council that City Council refuse the alterations to the heritage property at 314 Jarvis Street as proposed in staff report (May 25, 2015) from the Director, Urban Design, City Planning.

At its meeting of July 7, 8 and 9, 2015 Council authorized the City Solicitor together with appropriate staff, to attend the Ontario Municipal Board hearing, to among other matters, oppose the zoning amendment appeal and in the event the appeal was allowed in whole or in part, to secure appropriate section 37 *Planning Act* facilities, services and matters. Council also refused the alterations to the heritage property at 314 Jarvis Street as proposed in the report (May 25, 2015) from the Director, Urban Design, City Planning.

A 10 day hearing for the zoning by-law amendment was scheduled to commence on November 20, 2017, however it was rescheduled for 8 days commencing February 7, 2018. This report seeks further input from the Toronto Preservation Board on this matter.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the confidential instructions to staff in Confidential Attachment 1.
2. City Council authorize the public release of the instructions in Confidential Attachment 1 and Appendices "A" and "C", if adopted by City Council, with the balance of the Confidential Attachment 1 to remain confidential as it contains advice which is subject to solicitor-client privilege, save and except that the Decision History and Appendices "B" and "D" both set forth in Confidential Attachment 1 are authorized for public release in any event.

FINANCIAL IMPACT

Adopting this report will have no financial impact beyond what has already been approved in the current year's budget.

DECISION HISTORY

The decision history is set out above in the Summary.

COMMENTS

This report is about litigation and contains advice or communications that are subject to solicitor-client privilege. The attachments to this report contain confidential information and should be considered by the Toronto Preservation Board and by City Council in camera.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

308-314 Jarvis Street and 225 Mutual Street -Alterations to Designated Heritage Property and Authority for Amending Heritage Easement Agreement 314 Jarvis Street

Confidential Attachment 1- Confidential Information and Recommendations