

July 18, 2022

VIA EMAIL

Our File No. 153644

Mayor John Tory and Members of Toronto City Council
Toronto City Hall
100 Queen Street West, 13th Floor
Toronto ON M5H 2N2

Attention: John D. Elvidge, City Clerk

Dear Mayor Tory and Members of Council:

**Re: Council Item - CC47.39
1196-1204 and 1206-1210 Yonge Street - Notice of Intention to Designate a Property
under Part IV, Section 29 of the Ontario Heritage Act**

Please be advised that Aird & Berlis LLP has been retained by Woodcliffe Landmark Properties ("Woodcliffe") in respect of lands known municipally as 1196-1210 Yonge Street and 8 Birch Avenue (the "Site").

On behalf of our client, we would ask that this letter be included on the record in respect of this matter and particularly so that Members of Council may be made aware of the profound concerns our client has both with the process undertaken by City staff in this matter as well as the proposed designation of the lands.

This letter should be understood as being a letter of objection to the staff recommendation contained in item CC47.39 and the staff report related thereto, dated July 5, 2022.

Procedural Issues and Concerns

As noted at the outset, Woodcliffe has profound concerns with the process undertaken by City staff and how that process clearly impacted upon the substantive outcome in this matter.

In the first public session held in respect of our client's development application for the Site, a virtual community consultation meeting, we were disappointed to hear members of the City staff pronounce that the Site had heritage value, prior to either reviewing the material filed or undertaken their own independent value assessment. That work was not done until this report was released, dated July 5, 2022, more than 7 months following the initial community meeting.

Prejudgement on matters as complex as determining cultural value, particularly on properties which have been so heavily altered over time, is problematic as it undermines the deliberative and unbiased process which should be both undertaken and be **seen** to be undertaken by City staff.

Waiver Process, Lack of Meaningful Consultation and No Notice of Report

Our client submitted a CHER in November, 2021, completed by ERA Architects Inc. Our client then executed a City Waiver to extend the period for reporting out on a potential designation; the

apparent reason for this extension was to allow for substantive and iterative discussions on the approach to assessing cultural value and to explore conservation and mitigation strategies.

Our client had understood that the point of the waiver was to provide time to have collaborative discussions with Heritage Planning Staff and with Toronto Preservation Board.

Unfortunately, over the course of two meetings during the extended timeline, materials that were submitted in advance (including a CHER, HIA, appended structural assessment, additional supplementary Without Prejudice memo, even a design concept where the building was retained), were not reviewed by City staff, thereby prohibiting truly meaningful discussions. The only actual response from City staff was the issuance of a formal report which was consistent with the original position taken by staff, prior to any actual investigation into the value of the Site.

Finally, the actual staff report, dated July 5, 2022, was not posted until the morning of the Toronto Preservation Board meeting on July 11th and without any notice to our client despite several attempts to reach out to City staff to ask if the item was to be posted. This meant that our client was unable to make a deputation, either orally or in writing, as there was no opportunity to digest the content of the report and prepare a response

Objection to Determination of Cultural Value

In addition to the serious process related issues identified above, which in our view also go to the core of the substantive issue, our client also objects to the determination of cultural heritage value for the Site by City staff and the Reasons for Designation included in the report.

The report is silent on the matter of integrity and the condition of the Site; we recognize that condition is not always relevant to a determination of cultural heritage value but in this instance where the degree of intervention and alteration has been so extensive and the condition is so poor, it is highly relevant in our view.

Additionally, the report does not provide Council with a fair and reasonable discussion of the alternative conservation and commemoration approaches, as set out in the development application materials and supported by the HIA prepared by ERA Architects Inc. and which had been reviewed with staff. This report does not offer Council a complete assessment in our view of the alternative proposal.

As a consequence, and while reserving Woodcliffe's ability to file a subsequent letter of objection to any decision of Council on this matter, please be advised that our client objects to the proposed designation and the process implemented by City staff in the strongest possible terms.

Yours truly,
AIRD & BERLIS LLP



Eileen P. K. Costello

EPKC:gg

cc Eve Lewis - Woodcliffe Landmark Properties
Phil Evans - ERA Architects Inc.

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