

Christopher J. Tanzola
Partner
Direct 416-730-0645
Cell 416-428-7493
ctanzola@overlandllp.ca

Overland LLP
5255 Yonge St, Suite 1101
Toronto, ON M2N 6P4
Tel 416-730-0337
overlandllp.ca



September 26, 2022

VIA EMAIL

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

Attention: City Clerk

Your Worship and Members of Council:

**RE: Item CC50.5 – 14 Rosemary Lane – Inclusion on the City of Toronto’s
Heritage Register**

We are the lawyers for Bram Granovsky, the owner of the property at 14 Rosemary Lane in the City of Toronto (the **“Property”**). We have recently been retained, following the consideration of this matter at the Toronto Preservation Board (the **“Preservation Board”**) on September 20, 2022 (Item PB38.7). We are writing to City Council to note our client’s opposition to the proposed listing of the Property on the City’s Heritage Register (the **“Register”**).

Lack of Notice

Just prior to our retainer, the Preservation Board on September 20, 2022 considered a report dated August 31, 2022 from the Senior Manager, Heritage Planning (the **“Staff Report”**). The Staff Report recommended inclusion of the Property on the Register. This appears to be the same Staff Report in substance that is being presented to City Council, although now dated September 19, 2022.

The Staff Report makes reference to an earlier City Council motion (Item MM47.76) that was considered by City Council on July 22, 2022 which gave direction to City Staff to undertake a heritage evaluation of the Property (the **“Council Motion”**).

Both the Staff Report and the Council Motion make reference to the nomination of the Property for consideration of its heritage status. The Council Motion makes a vague reference to “the local community” initiating the nomination, while the only detail regarding the nomination of the Property that is provided in the Staff Report is that it happened in “December 2021”

Our client was not provided with advance notice of either the Council Motion in July 2022 or the Staff Report in August 2022. Additionally, our client has been provided with no substantive details regarding the nomination of the Property by “the local community” in “December 2021”.

Upon learning that this matter would be considered at the September 20, 2022 Preservation Board meeting, our client sought the advice of counsel.

Our client has had no opportunity for discussion with the local Councillor who moved the Council Motion, nor with City Staff who prepared the Staff Report, nor with whomever in the “local community” nominated the Property in “December 2021”.

Given the potential implications for a property and given an owner’s rights and reasonable expectations, City Council should not lightly approve recommendations assigning heritage status to a property where there has not been sufficient (or any) notice provided to the landowner, as in this case.

Potential Misuse of Heritage Listing

We are very concerned that the proposed inclusion of the Property on the Register is being done for a collateral purpose that has to do with the potential redevelopment of the Property and not with the actual cultural heritage value of the Property.

The Property was the subject of a minor variance application (City File No. A0139/20TEY), which sought the demolition of the existing building on the Property and its replacement with a new 3-storey dwelling (the “**Minor Variance Proposal**”). The Minor Variance Proposal was refused by the Committee of Adjustment on June 30, 2021.

Our client appealed the Committee’s decision and an appeal hearing was held by the Toronto Local Appeal Body (TLAB File No. 21 186162 S45 12 TLAB) on January 6 & February 3, 2022. In a decision dated March 11, 2022 (the “**TLAB Decision**”), the Minor Variance Proposal was refused.

The reasons for refusal given in the TLAB Decision make no mention whatsoever of the Property having potential heritage value. The TLAB Decision concerned, almost exclusively, the variances relating to the length and depth of the proposed dwelling including the configuration of the proposed rear deck. No heritage evidence was adduced by either expert witness who testified at the TLAB hearing. The City of Toronto did not appear in opposition to the Minor Variance Proposal. Furthermore, City Planning Staff after reviewing the Minor Variance Proposal provided written confirmation (by email dated March 25, 2021) that they had no concern with the design.

Notwithstanding that the heritage value of the Property was not raised as an issue concerning the proposed redevelopment of the Property, in the Council Motion of July 2022, the local councillor cited the redevelopment of the Property as the reason to proceed with a heritage investigation, stating “[g]iven the property is likely to be subject to future redevelopment application prior to the first regular meeting of City Council in the new Council term, I am requesting that this matter be deemed urgent”

The provisions of the *Ontario Heritage Act* should not be used as a collateral curb on *Planning Act* processes. In its February 2022 Report, the Ontario Housing Affordability Task Force noted this concern, observing that there is “pressure” to designate buildings with little or no heritage

value as “heritage” if development is proposed. The Report’s authors observe that “[e]ven where a building isn’t heritage designated or registered, neighbours increasingly demand it be as soon as a development is proposed.” The Report makes recommendations to prevent misuse of the heritage process, including “prevent[ing] abuse of the heritage preservation and designation process by ... prohibiting reactive heritage designations after a *Planning Act* development application has been filed.”

Given the timeline of events described above, we are concerned that the impetus for the inclusion of the Property on the Register is based on the potential redevelopment of the Property rather than its merit as a heritage building.

Reasons for Inclusion are Inadequate

We have reviewed the Staff Report and are of the view that the reasons given for inclusion of the Property on the Heritage Register are inadequate, or alternatively are so generalized as to be capable of being applied to numerous other properties in the surrounding area.

The bulk of the 6-page Staff Report is given over to simply explaining the Province and City’s heritage framework with no particular reference to the Property. Another page simply provides a factual background regarding the Property. Specific discussion regarding the potential heritage value of the Property is limited to the final page of the Staff Report, much of which is repeated in the appendix. The “descriptive listing” contained in the Staff Report essentially just lists what can be physically observed about the Property. Similarly, the balance of the report is made up of maps and photographs that document what currently exists. The heritage value of a property should not be assumed simply because it comes from an earlier time.

Much store seems to be placed in the notion that the Property was designed by an architect and done in the Tudor Revival style. However, the Staff Report is clear that the Property is not unique in the area or even on the street in this regard: “14 Rosemary Lane is one of several such homes in the area, including a number of Page and Steele designed homes on the street”. The Staff Report notes that the Property is similar to other homes and notes it as part of a “streetscape”. The *Ontario Heritage Act* has provisions for the identification of heritage conservation districts which would bring with it a much more comprehensive set of criteria and considerations, as well procedural protections for property owners, than does the listing of an individual property as a response to a development application and without adequate consultation with the owner.

Request for Notice

Please include this correspondence together with Item CC50.5 on City Council’s agenda for September 28, 2022 noting our client’s objection to the proposed inclusion of the Property on the Register for the reasons set out above.

Please provide the undersigned and the owner with written notice of City Council’s decision in this matter, as well as any further consideration of the Property by City Council or any committee of City Council.

Additionally, please provide the undersigned and the owner with statutorily required notices under the *Ontario Heritage Act*.

Yours truly,
Overland LLP

A handwritten signature in black ink, appearing to read 'CJ Tanzola', with a stylized flourish at the end.

Per: Christopher J. Tanzola
Partner

- c. Bram and Stacey Granovsky
Members of City Council
Mayor Tory