

## **778 King Street West – Proposed Designation By-law Under Part IV, Section 29 of the Ontario Heritage Act - Consideration of Objections**

**Date:** June 8, 2022

**To:** Planning and Housing Committee

**From:** Chief Planner and Executive Director, City Planning

**Wards:** Spadina - Fort York - Ward 10

### **SUMMARY**

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This report recommends that Council affirm its decision of April 6 and 7, 2022 (Item PH32.15) stating its intention to designate the property at 778 King Street West under Part IV, Section 29 of the Ontario Heritage Act. The City has received an objection to the Notice of Intention to Designate on behalf of the property owner within the statutory timeline.

The property at 778 King Street West is located on the north side of King Street West, west of Tecumseth Street.

Staff have reviewed the objections raised by the owner and are of the opinion that despite these objections, the property meets Ontario Regulation 9/06, the criteria prescribed for municipal designation under Part IV, Section 29 of the Ontario Heritage Act, under all three categories of design/physical, historical/associative, and contextual values.

As the property has cultural heritage value or interest and meets the prescribed criteria pursuant to Part IV, Section 29 of the Ontario Heritage Act, this property should be designated. Designation enables Council to review proposed alterations for the property, enforce heritage property standards and maintenance, and refuse demolition.

In June 2019, the More Homes, More Choice Act, 2019 (Bill 108) received Royal Assent. Schedule 11 of this Act included amendments to the Ontario Heritage Act (OHA), which included amendments to the listing and designation processes. The Bill 108 Amendments to the OHA came into force on July 1, 2021.

## **RECOMMENDATIONS**

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The Chief Planner and Executive Director, City Planning recommends that:

1. City Council affirm its decision to state its intention to designate the property at 778 King Street West under Part IV, Section 29 of the Ontario Heritage Act as set out in Council Decision PH32.15 on April 6 and 7, 2022.
2. City Council authorize the City Solicitor to introduce the Bill in Council designating the property at 778 King Street West under Part IV, Section 29 of the Ontario Heritage Act.

## **FINANCIAL IMPACT**

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There are no financial implications resulting from the adoption of this report.

## **DECISION HISTORY**

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On April 6 and 7, 2022, Council stated its intention to designate the property at 778 King Street West under Part IV, Section 29 of the Ontario Heritage Act.  
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2022.PH32.15>

## **BACKGROUND**

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Council has stated its intention to designate the property at 778 King Street West under Part IV, Section 29 of the Ontario Heritage Act (the Act). Notice of Council's intention to Designate was served on the property owners and the Ontario Heritage Trust, and was published in accordance with the Act. The objection period ended on May 9, 2022.

A Notice of Objection was received by the City Clerk on behalf of the owners of the property within the required timeframe set out in the Act. The Act requires that Council consider and make a decision on an objection within 90 days from the end of the objection period, subject to any permitted exceptions under the Act. Council may decide to withdraw, amend, or affirm its intention to designate.

## **COMMENTS**

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Staff have reviewed the Notice of Objection dated May 9, 2022, and prepared by Aird Berlis LLP. The Notice of Objection is included as Attachment 1 to this report. Through this letter the owners outline a number of reasons for their objection.

The owner continues to object to the Notice of Intention to Designate and allege that Council did not have statutory authority to issue the Notice of Intention to Designate. The City Solicitor's Office responded directly to the applicant on this matter both prior to City Council adopting the Notice of Intention to Designate and in response to this objection. The City Solicitor advises that the owner's objection on the basis of alleged lack of Council's authority is without merit and not supported by the Act and its regulations.

In addition, the owner has expressed the opinion that the heritage attributes included in the Statement of Significance (Reasons for Designation) are overly broad, including that the glass block panels at the upper storey of the building and the skylight running horizontally across the building's centre do not demonstrate a direct connection to the use of the building as an Art Gallery, nor its value as a mid-twentieth-century industrial headquarters. The Statement of Significance (Reasons for Designation) adopted by Council is appended to this report as Attachment 2.

Staff have re-examined the Statement of Significance (Reasons for Designation) for the property at 778 King Street West and remain of the opinion that the extent of the Statement of Cultural Heritage Value and the Heritage Attributes appropriately describe the cultural heritage value or interest of this property as it relates to the criteria prescribed by Ontario Regulation 9/06 of the Act. Staff do not recommend revisions to the extent of this statement.

In the opinion of Heritage Planning staff, the intact composition and details of the property's east elevation, including glass block panels that are located at the upper storey and visible from the public realm, contribute to the property's cultural heritage value as a representative example of a mid-twentieth-century industrial headquarters, demonstrating the influence of the Streamlined Moderne style. This style was a post-1930s variant of the Art Deco style and often used a material palette consistent with that of the building at 778 King Street West, including glass block panels.

The large skylight running horizontally across the building's centre, dating to its adaptive reuse as an art gallery, was part of the alterations designed by noted architect Peter Smith. The skylight was added to facilitate the building's reuse as the Ydessa Hendeles Art Foundation gallery and directly connects to this significant association. An article in *The Toronto Star* by architecture critic Christopher Hume, published in November 1988, specifically highlighted the skylight as an important feature of the adaptive reuse project.

## **CONCLUSION**

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The property at 778 King Street West meets Ontario Regulation 9/06, the criteria prescribed for municipal designation under Part IV, Section 29 of the Ontario Heritage Act, under all three categories of design/physical, historical/associative, and contextual values. As such, despite the Notice of Objection, this property should be designated.

## **CONTACT**

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Mary L. MacDonald, MA, CAHP  
Senior Manager, Heritage Planning  
Urban Design, City Planning  
Tel: 416-338-1079; Fax: 416-392-1973  
E-mail: Mary.MacDonald@toronto.ca

## **SIGNATURE**

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Gregg Lintern, MCIP, RPP  
Chief Planner and Executive Director  
City Planning

## **ATTACHMENTS**

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Attachment 1 – Letter of Objection – 778 King Street West  
Attachment 2 – Statement of Significance – 778 King Street West

LETTER OF OBJECTION



Eileen P. K. Costello  
Direct: 416.865.4740  
E-mail: [ecostello@airdberlis.com](mailto:ecostello@airdberlis.com)

May 9, 2022

Matter No.: 139017

**BY EMAIL**

John Elvidge, City Clerk  
City of Toronto  
Toronto City Hall, 13th fl. W.  
100 Queen St. W.  
Toronto ON M5H 2N2

Email: [clerk@toronto.ca](mailto:clerk@toronto.ca)

Attention: Administrator, Secretariat, City Clerk's Office

**Re: Notice of Objection to Intention to Designate a Property under Part IV, Section 29 of the Ontario Heritage Act  
– 778 King Street West, pursuant to Subsection 29(5) of the Ontario Heritage Act**

Aird & Berlis LLP represents the owners (our "Client") of 778-788 King Street West in the City of Toronto which includes 778 King Street West (the "Subject Property").

At its meeting of April 6, 2022, Toronto City Council stated its intention to designate the Subject Property under Part IV, Section 29 of the *Ontario Heritage Act* ("OHA"). Our Client objects to Council's intention to designate the Subject Property on the basis that Council has no statutory authority to issue such a notice in accordance with s. 29(1.2) of the OHA.

In addition, our Client objects to the proposed designation of the Subject Property on the basis that the heritage attributes articulated in the Notice of Intention to Designate and the accompanying Staff Report are overly broad.

On November 6, 2021, our Client filed a complete Zoning By-law amendment application to permit the redevelopment of 778-788 King Street West. In early March 2022, our Client became aware of a City Staff Report, dated March 9, 2022 recommending that City Council state its intention to designate the Subject Property under Part IV, Section 29 of the OHA. On March 21, 2022, we, on behalf of our Client, filed a letter with the Toronto Preservation Board, requesting that the recommendation to designate the property be removed from the agenda, on the basis that Council was out of time to state its intention to designate the Subject Property. A copy of that letter is enclosed, and forms part of our notice of objection pursuant to subsection 29(5) of the OHA.

Notwithstanding our notice to the Toronto Preservation Board that Council has no statutory authority to designate the Subject Property, on March 23, 2022, Toronto Preservation Board recommended that City Council state its intention to designate the Property.

Subsequently, on March 25, 2022 Toronto Planning and Housing Committee recommended that City Council state its intention to designate the Subject Property, which recommendation was then adopted by Council at its April 6, 2022 meeting.

May 9, 2022  
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For the reasons set out in our March 21, 2022, it continues to be our position that Council lacks the statutory authority to designate the Subject Property.

In addition, our Client has concerns with the extent and basis for the Reasons for Designation cited in the draft Designation By-law. These concerns, include but are not limited to, the identification of alleged heritage attributes including glass block panels at the upper storey, and the skylight running horizontally across the building's centre. These building elements do not demonstrate a direct connection to the use of the building as an Art Gallery, nor its value as a "mid-twentieth-century industrial headquarters".

Should you have any questions or require further information, please do not hesitate to contact the undersigned or Matthew Helfand, at 416.865.4624 or [mhelfand@airdberlis.com](mailto:mhelfand@airdberlis.com).

Yours truly,

AIRD & BERLIS LLP



Eileen P.K. Costello  
EPKC/MH  
Encl.

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## AIRD BERLIS

Eileen P. K. Costello  
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March 21, 2022

Our File No.: 139017

### BY EMAIL

Toronto Preservation Board  
Email: [hertpb@toronto.ca](mailto:hertpb@toronto.ca)

Attention: Ellen Devlin

Dear Chair and Members of the Board:

**Re: PB32.1 – Objection to Notice of Intention to Designate a Property under Part IV,  
Section 29 of the Ontario Heritage Act – 778 King Street West**

Aird & Berlis LLP represents the owners of 778-788 King Street West in the City of Toronto (the "Site"), which includes 778 King Street West (the "Subject Property").

The purpose of this correspondence is to advise the City, and the Toronto Preservation Board, that Council has failed to give notice of its Intention to Designate the Subject Property within the statutory timeframes set out in the Ontario Heritage Act and accordingly, is precluded from doing so now. Our reasons are set out below.

Our clients filed an application for a zoning by-law amendment to permit the construction of an 18-storey mixed-use building on the Site on November 17, 2021. A Notice of Complete Application was provided to our clients on January 5, 2022, confirming that our clients' rezoning application was deemed complete as of **November 17, 2021**. A copy of the Notice of Complete Application is attached to this correspondence.

Council is required to give notice of intention to designate a property under s. 29(1) of the *Ontario Heritage Act* (the "OHA") within 90 days of the statutory notice of a complete planning application pursuant to s. 29(1.2) of the OHA. The "prescribed event" contemplated in s. 29(1.2) of the OHA is defined in s. 1(1)2 of O. Reg. 385/21:

1. (1) For the purposes of subsection 29 (1.2) of the Act, the following events that occur on or after July 1, 2021 are prescribed in respect of a property in a municipality:

...

2. A council has completed giving notice in accordance with clause 34 (10.7) (a) of the Planning Act of an application for an amendment to a by-law referred to in that clause, if the subject land to which the proposed amendment applies includes the property.

March 21, 2022

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Clause 34(10.7)(a) of the *Planning Act* provides that within 15 days after an application is deemed complete, Council must give notice of the application for an amendment to a by-law. Notice of the application was not delivered by the Clerk within 15 days of the date the application was deemed complete; it was delivered on January 14, 2022, 58 days after the date the application was deemed complete. As noted below, delay on the part of the City to fulfil its statutory obligations does not absolve it of those obligations, nor change the date upon which the application was deemed to be complete.

On December 7, 2021, our clients received correspondence from Ms. MacDonald which acknowledged the requirement for Council "to issue a Notice of Intention to Designate within 90 days of the Prescribed Event (i.e. the Notice of a Complete application under the *Planning Act*)."  
**Ms. MacDonald advised that City Planning was required to bring a Notice of Intention to Designate report to the February 2/3, 2022 meeting of Council, and asked our clients to consent to an extension of the statutory timeline. Our clients did not consent to an extension of the statutory timeline.**

**The City's failure to adhere to the statutory timeline requirements for notice under the *Planning Act* does not exempt it from the statutory timeline requirements under the OHA, nor provide an opportunity for the City to grant itself a unilateral extension on the required timelines, particularly after our clients refused to agree to a requested extension.**

On this basis, we respectfully request that item PB32.1 be removed from the agenda for consideration by the Toronto Preservation Board as Council does not have the authority to issue such a notice in accordance with s. 29(1.2) of the OHA.

Yours truly,

AIRD & BERLIS LLP



Eileen P.K. Costello  
EPKC/MTB  
Encl.

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AIRD BERLIS



**778 KING STREET WEST**  
**STATEMENT OF SIGNIFICANCE**  
**(REASONS FOR DESIGNATION)**

**ATTACHMENT 2**

The property at 778 King Street West is worthy of designation under Part IV, Section 29 of the Ontario Heritage Act for its cultural heritage value, and meets Ontario Regulation 9/06, the provincial criteria prescribed for municipal designation, under the categories of design/physical value, historical/associative value, and contextual value.

**Description**

Designed by Leo Hunt Stanford, the property at 778 King Street West was constructed in 1947 as the headquarters of the York Mending Wool Company. It was subsequently the location of Uniforms Registered and the notable Ydessa Hendeles Art Foundation gallery, and is currently a real estate office. The property is located on the north side of King Street West, just west of Tecumseth Street. A two-storey form with a flat roof, the building is faced in red-orange brick with stone trim.

**Statement of Cultural Heritage Value**

The property at 778 King Street West is a representative example of a mid-twentieth-century industrial headquarters, demonstrating the influence of the Streamlined Moderne style in its material palette, detailing, and horizontal emphasis. The building retains its red-orange brick exterior, tiered brick pilasters above a stone-clad entry, stone detailing such as belt courses and geometric motifs, and horizontal rhythm of fenestration on the primary (south) elevation, despite the lowering of the ground-floor window openings, as well as intact architectural details on the east elevation such as glass block panels.

Constructed for the York Mending Wool Company in 1947, the subject property has direct associations with the redevelopment of King Street West for manufacturing during the first half of the twentieth century. The property was one of a number of industrial buildings in the immediate vicinity on King Street West that represented textile-related industries. The property also reflects the later period of cultural regeneration along King Street West, and has associative value as the location of the Ydessa Hendeles Art Foundation Gallery from 1988 to 2012. After artist and curator Ydessa Hendeles hired architect Peter Smith to renovate the building, she operated a celebrated non-profit centre for exhibiting international contemporary art in Canada. A large extant skylight, running horizontally across the building's centre, was added by Smith in 1988 as part of the property's successful adaptive reuse.

For over 70 years, the former York Mending Wool Company building, later Uniforms Registered and the notable Ydessa Hendeles Art Foundation gallery, has been physically, functionally, and historically linked to its surrounding context, initially as a contributor to King Street West for manufacturing during the first half of the twentieth century, as well as to the area's later period of adaptive reuse and cultural regeneration.

## **Heritage Attributes**

### **Design and Physical Value**

The following heritage attributes contribute to the cultural heritage value of the property at 778 King Street West as a mid-twentieth-century industrial headquarters, demonstrating the influence of the Streamline Moderne style:

- The scale, form, and massing of the two-storey, flat-roofed building
- The property's material palette of red-orange brick with stone details
- The primary (south) elevation's compositional organization, with an entry bay to the west and four bays to the east
- The horizontal rhythm of fenestration on the primary elevation, with a glazed panel above the entry, and wide openings at the lower and upper storey of each additional bay
- On the primary elevation, stone cladding at the ground floor of the entry bay; tiered brick pilasters with stone coping at the upper storey
- On the primary elevation, stone belt courses, coping, and geometric motif detailing at the four window bays
- On the east elevation, which is visible from the public realm, the intact composition and details including large glass block panels at the upper storey
- The large skylight running horizontally across the building's centre, dating to its adaptive reuse as an art gallery

### **Historic and Associative Value**

The following heritage attributes contribute to the cultural heritage value of the property at 778 King Street West, in relation to its associations with the history of manufacturing on King Street West, and with adaptive reuse for the Ydessa Hendeles Art Foundation:

- The building's siting and orientation on the north side of King Street West, between Niagara and Tecumseth streets
- The large skylight running horizontally across the building's centre, dating to its adaptive reuse as an art gallery

### **Contextual Value**

The following heritage attributes contribute to the cultural heritage value of the property at 778 King Street West as a contributor to King Street West for manufacturing during the first half of the twentieth century, as well as to the area's later period of adaptive reuse and cultural regeneration:

- The building's siting and orientation on the north side of King Street West, between Niagara and Tecumseth streets
- The scale, form, and massing of the two-storey, flat-roofed building
- The property's material palette of red-orange brick with stone details