

June 27, 2022

By E-Mail to teycc@toronto.ca

Toronto and East York Community Council
Toronto City Hall
100 Queen Street West
Toronto, Ontario
M5H 2N2

Attention: Ellen Devlin, Committee Secretariat

Dear Ms. Devlin:

**Re: Alterations to a Heritage Property and Authority to Enter into a Heritage Easement Agreement - 95 St. Joseph Street
Agenda Item: TE34.15**

We are counsel to the Basilian Fathers of Toronto and Daniels HR Corporation, which applied to the City of Toronto in February 2019 for Official Plan and Zoning By-law Amendments (the “OPA/ZBA Applications”) to permit a high-density mixed-use development at 95 St. Joseph Street (the “Property”).

More recently, following the City’s issuance of a Notice of Intention to Designate the Property under Part IV of the *Ontario Heritage Act* on March 15, 2022, our clients submitted a Heritage Permit application to the City on April 12, 2022 (the “Heritage Application”). The Heritage Application proposes both alterations and demolitions of the existing buildings on the Property to accommodate the proposed development in a manner that appropriately conserves the cultural heritage value of the Property.

In advance of the Heritage Application being considered by the Toronto Preservation Board (the “TPB”) at its meeting on June 14, 2022, we submitted correspondence dated June 10, 2022, confirming our clients’ general support for the recommendations set out in the original staff report; namely, that City Council consent to the Heritage Application, thereby permitting the proposed alterations and demolitions. At the same time, we identified some concerns with the recommended conditions of approval, which we believed could be resolved through relatively minor revisions.

We are pleased to see that some of these concerns have been addressed in the revised conditions of approval set out in the staff report dated May 24, 2022, which is to be considered by Toronto and East York Community Council at its meeting on June 29, 2022.

However, one condition that remains of some concern is proposed condition b.3, which states, in part, that “the Conservation Plan must be accepted and the Heritage Easement Agreement must be entered into and registered no later than December 9, 2022, or such later date as may be agreed by the owner and the Senior Manager, Heritage Planning in writing, failing which this condition will be determined to be unfulfilled”.

As noted in our earlier submission to the TPB, it is unclear why a sunset date for these two matters is being contemplated, and the proposed date of December 9, 2022 appears to be arbitrary. Moreover, given that both of these matters would require action by the City, they are, at least to some degree, beyond the control of the owner.

In addition, the proposed condition contemplates the use of “legal mechanisms ... to satisfy the City Solicitor that no Building Permit will be issued until such time as the Owner has entered into the Heritage Easement Agreement and registered the agreement on title”. This is similar to the staff recommendation in respect of our clients’ OPA/ZBA Applications (Agenda Item TE34.7), which recommends that City Council authorize the City Solicitor to submit the necessary bill(s) to adopt an Official Plan Amendment and enact a Zoning By-law Amendment “provided the City Solicitor is satisfied that the appropriate legal mechanisms are in place to ensure that no building permit will be issued until such time as the Section 37 Agreement and the Heritage Easement Agreement is/are executed and registered”. Thus, assuming that the staff recommendations are endorsed by City Council, there is potential that the Heritage Easement Agreement would not need to be executed and registered until some time after December 2022, depending on the timing for issuance of the first building permit.

As a result, while our clients continue to generally support the staff recommendations, we request that condition b.3 be amended to delete the second sentence.

Kindly ensure that we are notified of the recommendation made by the Toronto and East York Community Council and the ultimate decision of City Council regarding this item.

Yours truly,
DAVIES HOWE LLP



Mark R. Flowers
Professional Corporation

copy: Amanda Hill and Jason Davidson, City of Toronto, Legal Services Division
Kristen Flood, City of Toronto, Heritage Planning
Clients