

PUBLIC ATTACHMENT 1



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Our File No.: 221868

Via Email: hertpb@toronto.ca

City Clerk's Office
Toronto City Hall
2nd Floor, West Tower
100 Queen Street West
Toronto, ON M5H 2N2

Attention: Administrator, Secretariat (City Clerk's Office)

Dear Sirs/Mesdames:

**Re: 1 Weatherell Street
Intention to Designate under Part IV, Section 29 of the *Ontario Heritage Act*, R.S.O
1990, c. O.18, as amended (the "OHA")
Notice of Objection**

We are solicitors for Rob and Marta Vitale in respect of the property known municipally in the City of Toronto as 1 Weatherell Street (the "**Property**"). We are writing on behalf of our client to object to the Notice of Intention to Designate the Property (the "**Notice**") pursuant to subsection 29(5) of the *Ontario Heritage Act* (the "**OHA**").

Basis for Objection

As background, our client purchased the Property for the purposes of building their new family home. The Property was not listed on the City's heritage inventory. At a public hearing on July 27, 2022, the Committee of Adjustment unanimously approved variances requested to facilitate a new 3-storey detached dwelling.

Planning staff did not object to the requested variances. However, and at the last minute, heritage planning staff provided a memorandum to the Committee of Adjustment requesting that the matter be deferred for six months, even though the application had been filed three months earlier. The Committee of Adjustment refused to grant the requested adjournment.

Now, after our client has proceeded in good faith and obtained approval for their new family home, Toronto City Council has indicated its intention to designate the Property. Our client received no notice of the proposed designation and had no opportunity to provide submissions to the City.

We would urge Toronto City Council to withdraw the Notice pursuant to subsection 29(7) of the *OHA* for the following reasons:

1. As noted above, the Property was not listed when purchased by our client. However, the alleged heritage potential has been before heritage planning staff for years. Online research suggests individuals have petitioned for a designation for approximately ten years, with a nomination submitted in February 2018. It is unreasonable and prejudicial to our client for the City to proceed with the designation process almost five years later.
2. Even after submission of the Application, the City had over three (3) months to consider the heritage value of the Property, but responded instead with a request for a lengthy and prejudicial deferral. The proposed designation after approval of the variances by the Committee of Adjustment amounts to an abuse of process.
3. The proposed designation would effectively sterilize the Property for our client. This will create considerable financial hardship for them. It will also create an odd result for the street, given that other bungalows have all been demolished to enable the construction of new family homes.
4. The alleged heritage potential is being used to defeat the Committee of Adjustment's approval. Those in the community who have been pressuring heritage planning staff to recommend designation did not appeal the Committee of Adjustment's decision.
5. The staff report dated September 19, 2022, in which heritage planning staff recommend designation (the "**Staff Report**") contains misleading and inaccurate statements.
 - a. The Staff Report suggests that the Committee of Adjustment "conditionally approved the application". This is misleading. The only conditions relate to clearance by Urban Forestry and issuance of a demolition permit under Section 33 of the *Planning Act*. There are no conditions of approval related to heritage matters.
 - b. The Staff Report suggests that the existing bungalow served as the private home for Toronto-born architect Henry Simpson in the final years of his life without identifying the source for this belief. Our understanding is that he may have lived there for three years but it is more likely that he designed the house for his caretaker. Our understanding is not that the house was designed for his personal use in retirement or old age.
 - c. The existing building is a typical bungalow. It is not a "rare, unique, representative or early example of a style, type, expression, material or construction method". If this bungalow meets this criterion in Ontario Regulation 9/06, then every bungalow in the City of Toronto meets this criterion.

- d. A better, more important and more interesting house designed by Henry Simpson in Parkdale is already recognized on the City's Heritage Register. However, even this property is listed and not designated.
- e. The Staff Report suggests contextual value to the Property, but ignores the significant change that has occurred in the neighbourhood. It is misleading to suggest that the existing dwelling sits amongst more typical and uniformly-designed subdivision houses when so much of the neighbourhood, including other bungalow, have been demolished and/or altered to enable more modern homes to be constructed.

Upon careful review, the Property does not warrant designation under Ontario Regulation 9/06. Regardless, the City's approach is prejudicial and extremely damaging to our client. Having been asked to consider the alleged heritage value of the Property, heritage planning staff did nothing for years, meaning that the Property was not listed when our client conducted its due diligence prior to purchasing the Property. The fair, correct and appropriate outcome would be for Toronto City Council to withdraw the Notice.

We would appreciate receiving notice of the required decision of City Council regarding this objection within the required ninety (90) day period under the *OHA*.

Yours truly,

Goodmans LLP



David Bronskill

DJB/rv

Encl.