



McCarthy Tétrault LLP
PO Box 48, Suite 5300
Toronto-Dominion Bank Tower
Toronto ON M5K 1E6
Canada
Tel: 416-362-1812
Fax: 416-868-0673

Michael Foderick

Direct Line: 416-601-7783
Direct Fax: 416-868-0673
Email: mfoderick@mccarthy.ca

Assistant: Hayley Barredo
Direct Line: 416-601-8200 (542065)
Email: hbarredo@mccarthy.ca

August 26, 2025

Via Email (registrarCCO@toronto.ca)

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

**Attention: Registrar Secretariat, City Clerk's
Office**

**Re: Notice of Objection to Notice of Intention to Designate
81-83 Isabella Street**

We are the solicitors for Akelius Canada Ltd. (the "**Owner**"), the owner of the property municipally known as 81-83 Isabella Street (the "**Property**") in the City of Toronto ("**City**").

Further to our previous correspondence of July 18, 2025, this letter serves as the Owner's formal Notice of Objection pursuant to the City's Notice of Intention to Designate the Property under subsection 29(5) of the *Ontario Heritage Act*, R.S.O. 1990, c. O.18 (the "**Heritage Act**"), dated July 28, 2025 ("**NOID**").

Following a collaborative pre-application process with City staff from both Community Planning and Heritage Planning, an application to amend the Zoning By-law (the "**Application**") was filed in respect of the Subject Property on June 6, 2025 and a Notice of Complete Application was issued by the City on July 15, 2025, effective July 4, 2025. A Heritage Impact Assessment ("**HIA**") prepared by GBCA was submitted as part of the Application.

The proposed development, as contemplated by the Application, integrates the principal (north) elevations and returns of the east and west wings of the existing building on the Property into the base of a new multi-storey residential building (the "**Proposed Development**"). The Owner is committed to continuing to engage with Community Planning and Heritage Planning staff to discuss the Proposed Development.

While the Owner acknowledges that the Property may have some cultural heritage value and is not disputing the idea of a Part IV designation under the *Heritage Act* in principle, the Reasons for Designation, as reflected in the NOID (the "**Reasons for Designation**"), are unhelpfully broad and merely describe existing architectural features without making logical connections to the requisite statutory criteria for designation. The Reasons for Designation also serve to limit the ability to achieve redevelopment that would have regard for matters of Provincial interest as set out in Section 2 of the *Planning Act*, R.S.O. 1990, c. P.13, be consistent with the Provincial

Planning Statement, 2024 and conform with the policies of the Official Plan.

In addition to the above, the enacting of a designation by-law that contains the heritage attributes identified in the Reasons for Designation has the effect of sterilizing the Property, which is counter to heritage best practice and the Standards and Guidelines for the Conservation of Historic Places in Canada (the “**Standards and Guidelines**”).

As such, we respectfully disagree with the Reasons for Designation as currently written. It is established case law that the purpose of the *Heritage Act* (and similarly, established heritage best practice in the Standards and Guidelines) is to balance the interests of stakeholders, including those of the Property owner. It is the Owner’s position that the Reasons for Designation as currently drafted would prevent any kind of meaningful intensification on the Property, including the Proposed Development.

With respect to the statement of cultural heritage value in the Reasons for Designation, while Norman Alexander Armstrong is noted as the architect of the building on the Property, the Merlan Apartments building is not a particularly exceptional example of Armstrong’s work. Further, the exclusion of other individuals associated with the Property, including notable former residents Dr. Ethel Chapman and Phyllis Webb, raises questions as to whether the heritage evaluation undertaken as part of the preparation of the Reasons for Designation was sufficient.

Overall, the proposed attributes identified as contributing to the design and physical value of the Subject Property are descriptive in nature and do not adequately demonstrate how the described building elements embody the cultural heritage value of the Subject Property.

It is the Owner’s position that the following heritage attributes as reflected in the NOID are overbroad and arbitrary, and in some cases, incorrect:

“The form, scale, and “U”-shaped building”

Maintaining the form, scale and shape of the existing building on the Property has the effect of sterilizing the Property as it would preclude the ability to introduce additional density through reasonable and appropriate redevelopment that implements an appropriate conservation strategy in an area characterized by its evolution from single-family detached dwellings to multi-unit, multi-storey residential buildings.

“The exterior materials comprising brick cladding and limestone accents on the principal (north) elevations and brick and stone flanking elevations”

An attribute identifying “brick and stone” exterior materials is vague and overly broad. The identified exterior materials, especially with respect to those identified on the flanking elevations, are common building materials used throughout the City that have been, and continue to be used in the construction of buildings of a variety of architectural styles. Further, the flanking elevations of the building on the Property extend a substantial depth into the Property and their visibility from the public realm becomes increasingly limited as the distance from the street increases.

“The fenestration comprising symmetrically arranged segmental arch window openings with brick voussoirs on the flanking elevations”

The fenestration of the flanking elevations is not symmetrically arranged and the flanking elevations do not share the same design articulation as the principal (north) massing,

which is noted in Figure 10, Page 21 of the City staff report titled “81 Isabella Street – Notice of Intention to Designate a Property under Part IV, Section 29 of the Ontario Heritage Act” dated July 4, 2025 (the “**Staff Report**”). The flanking elevations appear volumetrically and materially different than the twin principal (north) elevations and returns of the east and west wings of the existing building and should not be considered heritage attributes.

“The main entrances on the twin principal (north) elevations, which are placed in stone surrounds with classical detailing that includes an entablature containing “The Merlan” text adorned directly above with dentils and a deep cornice, including also the doorways’ assemblies of leaded sidelights with wood-panelled base and glazed and leaded wood panel door.”

The current door assembly is modern aluminum framing, not wood, and GBCA has confirmed there is no leaded glass in the glazed door leaves. It should also be noted that the leaded glass fixed windows above the main entrances, which better embody the design and physical value of the Property in comparison to the fenestration on the flanking elevations, were excluded from the list of heritage attributes. Further, it is unclear how the building name could be considered an attribute contributing to the design and physical value of the Property.

Please note that the foregoing analysis is not exhaustive and represents an example of the concerns the Owner has with the identified heritage attributes and statement of cultural heritage value as reflected in the Reasons for Designation. The Owner reserves the right to expand upon these issues and concerns as part of any future appeal to the Ontario Land Tribunal, should an appeal be necessary.

Given the above, on behalf of the Owner, we respectfully request that the NOID for the Property be withdrawn until such time that the Owner and its consultants can meet with City staff and the Ward Councillor to determine appropriate heritage attributes and discuss the Proposed Development and the conservation strategy as described in the HIA, in the context of other planning objectives as noted above.

We request that the undersigned be provided with notice of any Committee, Community Council and City Council meetings where reports related to the above-noted matter are to be considered. Finally, we request that the undersigned be notified of any decision regarding this matter.

Yours truly,



Michael Foderick
Partner | Associé

cc: Mary MacDonald, Senior Manager, Heritage Planning