

**From:** [Kyne, Michael](#)  
**To:** [Mark Giavedoni](#); [Amy Reyes](#)  
**Cc:** [Kolar, Loren](#); [Pilon, Janet](#)  
**Subject:** Communications Item : Heritage Designation at 374 Jerseyville Road, Ancaster  
**Date:** December 7, 2018 3:05:56 PM  
**Attachments:** [MKyne ltr Dec 7 18.pdf](#)  
[Letter Ancaster Heritage Designation.pdf](#)

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Mark, receipt acknowledged and correspondence forwarded to the Hamilton Municipal Heritage Committee as requested.

Michael Kyne  
Solicitor, City of Hamilton  
(905) 546-2424 x4716

The contents of this email are privileged and confidential. If you receive this email in error, please destroy it and contact me immediately. Thank you for your assistance.

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**From:** Amy Reyes [mailto:[areyes@esblawyers.com](mailto:areyes@esblawyers.com)]  
**Sent:** Friday, December 07, 2018 2:47 PM  
**To:** Kyne, Michael  
**Cc:** Mark Giavedoni  
**Subject:** Heritage Designation at 374 Jerseyville Road, Ancaster

Good afternoon

Please see the attached correspondence from Mark Giavedoni.

Thank you kindly,

Amy

**Amy Reyes** | Real Estate Assistant

**ESB Lawyers LLP**

1500 – One King Street West, Hamilton, ON L8P 1A4

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**Todd White**  
Chair of the Board  
Hamilton-Wentworth District School Board  
20 Education Court, P.O. Box 2558  
Hamilton, ON L8N 3L1  
905-527-5092 ext. 2279

November 28, 2018

Hamilton Municipal Heritage Committee  
City of Hamilton  
71 Main Street West  
Hamilton, ON L8P 4Y5

Attention: Ms. Loren Kolar, Legislative Coordinator

Dear Ms. Kolar:

Re: Ancaster High School – 374 Jerseyville Road West, Ancaster

We write in response to the motion by Councillor Lloyd Ferguson (moved by Councillor Collins on his behalf) at the July 18, 2018 Planning Committee and carried at the August 14, 2018 meeting, directing the Municipal Heritage Committee to commence the process to designate all 43 acres of the Ancaster High School property under the *Ontario Heritage Act*.

The comments on the record and in the minutes of the Planning Committee show that the motivation for pursuing such a designation is aimed at preventing the Hamilton-Wentworth District School Board (“HWDSB”) from considering options on how to divest itself of a portion of the site that is not required to achieve its mandate under the *Education Act*.

We understand that the role and function of a designation under the *Ontario Heritage Act* is to recognize lands and structures of a significantly historical and cultural nature to the City of Hamilton and its community. It is not a land-use planning tool that takes the place of a zoning bylaw, a site plan agreement, severance conditions or a myriad of other land-use planning tools available to a municipality. Instead, the motion at the Planning Committee can be seen as an abuse of process to discriminate against the HWDSB in its efforts to deal with its own property and to realize revenue. The subtext to the motion is clear: if the City cannot afford to acquire the lands, then no one will acquire the lands.

We note with reference, two articles in *The Hamilton Spectator* on August 15, 2018: the first reported on the Planning Committee motion for Ancaster High and the second was a decision by the Municipal Heritage Committee to reject a designation for the Stoney Creek United Church, which has deep historical and cultural significance to the City of Hamilton and the Methodist and United Church Congregations. The basis of that decision appears to be that a designation would impact the ability of the congregation to sell the church on the open market.

HWDSB and the City of Hamilton have had a strong record of working together in this community for the benefit of the same stakeholders and have taken great pride in their ability to communicate and cooperate in serving this community within their respective mandates; however, if the City of Hamilton wishes to continue to utilize the heritage designation process as a land-use tool to deter or prevent development that it arbitrarily deems inappropriate, then HWDSB will have no other alternative but to seek full recourse under the law.

# HWDSB

**Todd White**  
Chair of the Board  
Hamilton-Wentworth District School Board  
20 Education Court, P.O. Box 2558  
Hamilton, ON L8N 3L1  
905-527-5092 ext. 2279

We are hopeful that the Municipal Heritage Committee will reconsider HWDSB's position on this matter and continue to involve HWDSB in any deliberations on this topic before making any recommendations to City Council or its committees.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd White", enclosed within a circular scribble.

Todd White  
Chair of the Board  
Hamilton-Wentworth District School Board

Cc: Municipal Heritage Committee



Mark R. Giavedoni  
[mgiavedoni@esblawyers.com](mailto:mgiavedoni@esblawyers.com)  
Certified Specialist (Real Estate Law)  
Professional Corporation

December 7, 2018

**SENT VIA EMAIL**

City of Hamilton  
Legal Services Division  
City Manager's Office  
21 King Street West, 12th Floor  
Hamilton, ON L8P 4W7

**Attention: Michael Kyne, Solicitor**

Dear Mr. Kyne:

Re: Hamilton-Wentworth District School Board ("HWDSB")  
Heritage Designation at 374 Jerseyville Road, Ancaster  
Our File No.: 7-3423

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On behalf of HWDSB, please see the attached letter from Chair, Todd White to the Hamilton Municipal Heritage Committee. This letter speaks of issues raised by Council relating to the Ancaster Highschool site and the demonstrable opinion of certain councillors to use the *Ontario Heritage Act* as a land use planning tool to restrict future use of the property. I believe it speaks for itself and I kindly ask that you forward it to the appropriate heritage committee members for consideration.

Thank you for your assistance in that regard.

Yours, very truly,



Mark R. Giavedoni

MRG/ar  
Attachment

Cc. Todd White, Chair of the Board, HWDSB  
Stacey Zucker, Associate Director, Support Services and Treasurer, HWDSB