

Planning Committee Meeting (Hamilton) Presentation – October 6, 2020 (Lynda Zugec)

Before I begin, I would like to point out that I was not included in the email distribution list to speak today, despite having spoken and submitted documentation at the September 17th Hamilton Municipal Heritage Committee meeting and multiple email exchanges with City staff. The online video recording of the September 17th meeting was truncated and excluded comments from other owners and Board members due to - from what was communicated to me by City staff - technological errors. I have also not heard anything from Councillor Jason Farr, despite his public declaration of wanting to “understand the residents’ issues before the matter goes to [the] planning committee”. As concerned owners, we did indeed reach out to Councillor Jason Farr previously in June 2019, but he seemed – at best – disinterested. If the City does connect with us, as was suggested by the committee, we would appreciate it to be with those who are more objective and who do not have an existing or past relationship with the Builder.

In terms of issues regarding designation:

- **Current Property Owners Were Treated As An Afterthought In The Designation Process**

According to Section 29, Part IV, of the Ontario Heritage Act, “the property owner is a key player in a designation under the Ontario Heritage Act. As early as possible in the process, designation should be discussed with owners to ensure that they are actively engaged in the process.” In our case, the process was hurried and the only communication that existed was a letter from the City of Hamilton advising that there was a recommendation to designate dated September 4th. The letter submitted by one of the Condo Boards Property Management Team for the September 17th meeting clearly stated that not enough time was provided for a complete and full review of the designation or to even properly consult owners. This is also evidenced by the fact that the first initial correspondence by the City of Hamilton is dated September 4th and we now attend this meeting on October 5th.

We were informed during the actual presentation on September 17th by David Addington (and via email correspondence to me directly as well as in the city report) that owners need not be consulted or agree to the designation and made it appear that the City of Hamilton is essentially doing us a "favor" by even sending a notice regarding this to owners. This is hardly congruent with Section 29.

Given my limited time to speak today, I would like to formally submit on record my previous statements made at the September 17th meeting as well as my statements today. I will now briefly highlight some of my statements during the September 17th meeting.

- **One Concern: The Property Description and Various Legal Entities Are Not Properly Detailed**

The report fails to properly detail the separate legal entities, pictorially or otherwise.

The report references “common element” or “common area” features of the building, but in the legal sense they are not, so the report is incorrect in these statements and very much misleading.

I will tell you why specifying the aforementioned is important.

The Builder decided to parse out the “Main Lobby” of the Royal Connaught building as a separate legal entity and put in place an agreement to charge condo owners \$68,000 yearly to enter and exit their condo units through the Main Lobby. As you can imagine, this has been a source of great tension within the building and this type of activity is set to become illegal under the Condo Act (please refer to the Stage 2

Report Recommendations). Hence, what are thought of or referred to as common elements are not common elements at all. Many of them are owned by the Builder so as to preserve the Builders' ongoing revenue stream.

To complicate matters, a surveyor's report obtained by owners indicates that the Main Lobby property description is actually included in the property description of the Agreement of Purchase and Sale of condo unit owners, thus complicating property description matters.

Such complexities necessitate the inclusion of accurate property descriptions and legal entities within the report.

For example, what happens in the event of a disagreement among any of the parties involved? I would like to highlight that currently there are 3 separate owners within the building – the Builder and 2 registered condo units. Also, there currently exists great friction among these existing parties. Looking forward, there is the potential for 8 separate legal entities to be a part of this one building.

Because of the immensely complex legal structure specific to the building, the City of Hamilton should engage in proper due diligence and include a properly detailed property description along with the associated legal entities. The City should also be proactive in identifying how disputes can be handled and potential City of Hamilton grants and loans or monies allocated.

- **Another Concern: Appendix B and Appendix D Need to Be Updated To Reflect The Reality of Today**

Appendix B STATEMENT OF CULTURAL HERITAGE VALUE AND DESCRIPTION OF HERITAGE ATTRIBUTES

Appendix D CULTURAL HERITAGE ASSESSMENT REPORT (2013)

The Cultural Heritage Assessment Report was completed in 2013 – 7 years ago.

As stated previously in the report “The designation of the subject property was [subsequently] put on hold on the request of the Builder [property owner] in 2013 to facilitate the building's repurposing into a mixed-use condominium”. I think many would agree that adding 14 stories to a building is a substantive change and that a lot of changes have happened at the Royal Connaught building since 2013.

Many of the Historic Attributes have been removed by the Builder since 2013, necessitating an updated Cultural Heritage Assessment Report by qualified personnel. In addition to not being updated to accurately reflect the reality of today, this has implications for both the Reserve Funds set out by the now-existing Condominium Corporations and potential Insurance Premiums/Payments for Owners, which as mentioned previously, were more of an afterthought rather than actively engaged participants in the process.

I understand that the City would like to “push this through their desk for approval” so to speak, but a lack of due diligence now will cause considerable problems in the future.

Thank you.